

A stylized illustration of the Statue of Liberty's head and crown. The statue is rendered in shades of green and blue. A bright red cloth is wrapped around its mouth, covering the entire area where the face would be. The background is a solid blue sky. The title text is overlaid on the upper part of the image.

SEGREGATING *American Citizenship*

Latino Voter Disenfranchisement in 2012

Here at our sea-
washed, sunset gates
shall stand a mighty
woman with a torch...

From her beacon
hand glows world-
wide welcome.

...masses yearning
to breathe free...

Executive Summary

The Latino community is a large and integral part of American democracy, comprising more than 10% of the nation's eligible voters and approximately 8% of its registered voters. Within specific states, those percentages are even higher. In Florida and New Mexico, for example, Latino citizens are more than 26% and 38% of eligible voters, respectively. A number of states have pursued discriminatory voting policies that threaten to undermine the participation of millions of Latino citizens during the 2012 elections.

This report finds that 23 states currently have legal barriers that disproportionately impact voter registration and participation by Latino citizens. ***These obstacles could deter or prevent more than 10 million Latino citizens from registering and voting in the 2012 elections.*** In many states, the number of eligible Latino citizens that could be affected by these barriers exceeds the margin of victory of the 2008 presidential election. In Florida, for example, eligible Latino voters amount to nine times the 2008 margin of victory, and in Colorado, the number of eligible Latino voters is twice the 2008 margin of victory. These are among the 23 states that have enacted voter suppression policies impacting Latinos. (See Table 4 in Section III, *infra*.)

The types of voter suppression laws and policies analyzed in this report are:

- (1) *Alleged* noncitizen voter purges of registered voters (in 16 states), which target naturalized citizens and may violate equal protection guarantees. Communities of color, specifically Black, Latino and Asian Americans, form a large percentage of naturalized citizens in states pursuing these purges, with Latinos comprising the largest percentage in most. (See Table 2 in Section II.A.)
- (2) Proof of citizenship requirements for voter registration (in effect in Georgia, and pending in Alabama and Arizona), which impose onerous and sometimes expensive documentation requirements on prospective voter registrants. These laws target naturalized citizens, many of whom are Latino. (See Section II.B)
- (3) Restrictive photo ID laws in 9 states, which similarly impose costs in time and money for millions of Latino citizens who do not have the required documents. (See Table 4 in Section III)

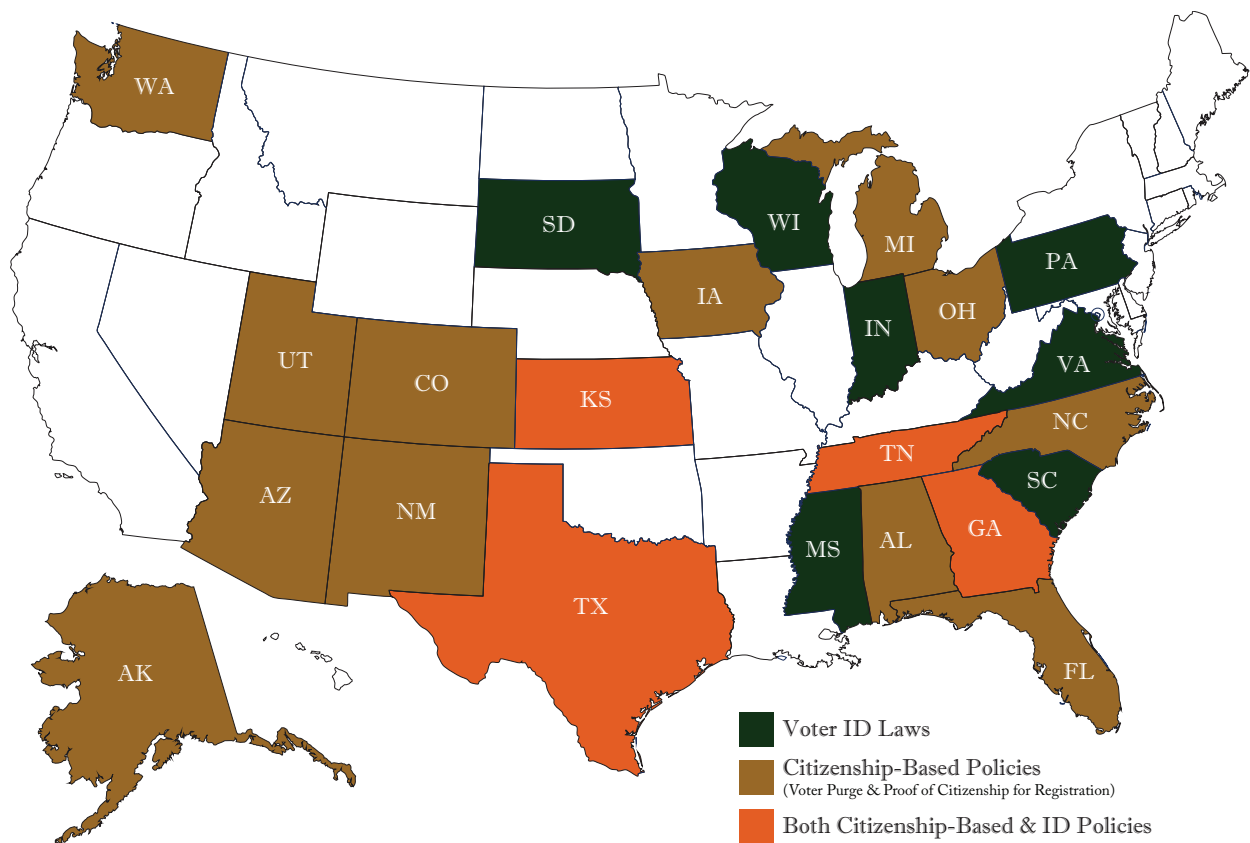
Voter suppression laws and policies threaten to relegate eligible Latino voters to second-class citizenship and impede their ability to participate fully in American democracy. Like African Americans, Latinos have experienced decreased access and correspondingly lower levels of voter registration and participation than non-Hispanic Whites.¹

To ensure that access to the ballot box is open and accessible to Latinos as well as all eligible voters, Advancement Project recommends that the unfair policies described in this report be repealed, and that the Department of Justice investigate and prosecute any related voting rights violations.

This report demonstrates that Latino voter participation is much lower than that of non-Hispanic Whites. To address this inequality, we recommend that election officials provide: voter registration and poll worker recruitment at naturalization ceremonies and in high schools; extended early voting periods and evening voting hours for working families; same day voter registration; bilingual materials and assistance at every stage of the voting process; year-round bilingual voter education and outreach efforts; staff designated for Latino outreach; partnerships with Latino civic engagement organizations; and perhaps most importantly, recruitment and retention of more Latino election officials.

This report will also be published in the next issue of the *Hispanic National Bar Association Journal of Law and Policy*.

Citizenship-Based and Voter ID Barriers to Latino Voter Participation 2012



Over 140 years ago, in response to the Dred Scott decision denying citizenship to former slaves and their descendants, the Fourteenth Amendment of the U.S. Constitution was enacted to guarantee the right to citizenship – including voting rights – for all persons born within the United States and subject to its jurisdiction:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State in which they reside.” U.S. CONST. AMEND. XIV, § 1.

I. The Latino Electorate in 2012

As of the 2010 Census, there were more than 21 million Latino citizens of voting age in the United States, comprising 10% of the nation’s eligible voters.² Latinos will make up 60% of our nation’s population increase in the coming years.³

At the same time, Latino citizens have potential for far greater participation and influence in our democracy. Out of the total eligible Latino electorate in the United States in 2010—almost 21.3 million eligible citizens—nearly 6.3 million (29.4%) reported that they were unregistered, and 10.8 million (50.8%), reported that they did not vote.⁴ In contrast, among the 172.4 million non-Hispanic, White citizens of voting age in 2010, 17.9% (30.8 million) were reportedly unregistered and 38.2% (65.8 million) reportedly did not vote.⁵ The chart below illustrates how voter registration and participation is markedly differentiated by race in the United States.

Table 1: 2010 Voter Participation by Race

Race	Citizen Voting Age Population (# Eligible Voters)	Reportedly Registered	Percent Registered	Reportedly Voted	Percent Participation
Total US population	210,800,000	137,263,000	65.1%	95,987,000	45.5%
Non-Hispanic White	152,929,000	104,316,000	68.2%	74,372,000	48.6
African American	25,632,000	16,101,000	62.8%	11,149,000	43.5%
Hispanic	21,285,000	10,982,000	51.6%	6,646,000	31.2%
Asian	7,639,000	3,765,000	49.3%	2,354,000	30.8%

*NOTE: Source: U.S. Census, Reported Voting and Registration, by Race, Hispanic Origin, Sex, and Age, for the United States: November 2010 (Modified Oct. 2011), <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2010/tables.html>.

Latino voter participation does not have to be low. Puerto Rico (99% Latino) has one of the highest registration and voting rates in the United States at more than 80%; however, after moving from the Island, Puerto Rican voter turnout drops to 30%. A significant part of this decline is likely caused by discriminatory and structural voting barriers.⁶

The total Latino electorate in 2012 will be even higher. A federal government study estimated that, in January 2010, more than 8.1 million legal permanent residents were eligible to naturalize and become citizens who could register and vote. More than 3.6 million of these legal permanent residents were from Latin America or Spain.⁷ In addition, since 2010, approximately 1 million young Latino citizens have turned 18 years old and are also eligible to vote during the 2012 elections.⁸ Therefore, in addition to 21 million eligible Latino citizens of voting age in 2010, an estimated 4.6 million new and eligible-to-naturalize Latino citizens may have become qualified to vote since 2010. This comes to a total of more than 25.6 million Latino citizens who could make up the Latino electorate for the 2012 elections.

II. New State Laws Undermining the Latino Vote

This year, an unprecedented number of voting restrictions impose barriers to voting that disproportionately affect the Latino community. These restrictions take on three forms:

- **Citizenship-based Voter Purges:** As of August 2012, 16 states have adopted or are pursuing citizenship-related purges of already registered voters:

Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Michigan, New Mexico, North Carolina, Ohio, Tennessee, Texas, Utah, and Washington. *See Appendix 1.*

- **Proof of Citizenship:** As of August 2012, several states have adopted, and another ten states have proposed, laws requiring additional documentary proof of citizenship to register to vote:

Such laws are currently in effect in Georgia, and are pending and may be in effect this year in Alabama and Arizona. *See Appendix 2.*

- **Photo ID Laws:** As of August 2012, 9 states have enacted laws requiring strict state-issued photo identification before allowing registered voters to cast a regular ballot:

Georgia, Indiana, Kansas, Mississippi, Pennsylvania, South Carolina, Tennessee, Texas, and Wisconsin. Another group of states have passed new voter ID laws that do not require government-issued photo IDs, but do include new requirements that voters present ID at the polls. *See Appendix 3.*

As discussed herein, the restrictive laws and policies enacted in the 23 states identified in this report threaten to further suppress Latino voter participation.

A. Alleged Noncitizen Voter Purges Targeting Naturalized Citizens

Led by Florida and Colorado officials, 16 states are pursuing alleged noncitizen voter purges:ⁱ

Alaska, Arizona (and five counties), Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Michigan, New Mexico, North Carolina, Ohio, Tennessee, Texas, Utah, and Washington. *See Appendix 1.*

As of 2010, there were nearly 5.5 million registered Latino voters in these 16 states. There are more than 1.1 million naturalized citizens from Latin America living in these 16 states.⁹ As naturalized citizens, they are potential targets for removal from the voter rolls unless they can prove their citizenship, despite the fact that they have taken an oath of citizenship and are legally registered to vote.¹⁰ The policies of these 16 states will also impact Latinos who are U.S.-born citizens, as many live in mixed-status families and communities, and are therefore likely to be intimidated by government actions challenging their immigration status.¹¹

A few states began to take steps to pursue citizenship-based purges after the 2010 elections, coinciding with the increasing size and influence of the Latino electorate. Florida commenced a highly controversial purge of alleged noncitizens this past spring. The trend accelerated in July 2012, when the total number of states seeking to compare their voter registration rolls with immigration databases increased to 16.¹² The method disproportionately targets naturalized Latino citizens who may improperly be identified as noncitizens under these programs. In 2012, key battleground states with high concentrations of Latino voters are now pursuing these wide-scale voter purges.

In July 2012, 13 states, led by Colorado Secretary of State Scott Gessler, petitioned the Department of Homeland Security (DHS) for access to its Systematic Alien Verification for Entitlements (SAVE) data for the purpose of identifying possible noncitizens to purge from voter rolls.¹³ On July 14, the DHS told a federal court that it confirmed Florida will have access to SAVE data and that five Arizona counties already have access.¹⁴ On August 14, the DHS entered into a Memorandum of Agreement (“MOA”) with Florida permitting it access to SAVE for the purposes of verifying its voter registration rolls.¹⁵ On August 22, the DHS entered into a similar MOA with Colorado for similar purposes.¹⁶

Both Colorado and Florida have identified voters to be investigated by comparing their voter registration rolls with driver’s license databases showing which voters had identified themselves as immigrants when they procured their licenses.¹⁷ However, naturalized citizens typically received their driver’s licenses when they were legal immigrants but *before* becoming naturalized citizens (and *before* registering to vote); therefore, this method generates lists of voters to be checked that targets naturalized citizens.¹⁸ The MOAs even take this into account, by stating that their purpose is “verifying citizenship and immigration status information of non-citizen and naturalized or derived U.S. citizen registrants (registrants) on the User Agency’s Voter Registration Rolls (benefit).”¹⁹

There is little evidence of noncitizens casting ballots. News21 recently released a Carnegie-Knight investigative report about voter fraud in the U.S, finding only 10 cases of alleged, in-person voter impersonation since 2000.²⁰ Out of 146

ⁱ On Sept. 11, 2012, the state of Washington issued a press release clarifying that it will be unable to access SAVE data to review its voting rolls for citizenship, as it does not have access to the “alien registration” numbers needed to do so. The Secretary of State expressed disappointment that he does not have the information needed to access SAVE, and urged the 2013 Legislature to approve a bill to require any driver’s license or state ID applicants who are immigrants to show their alien registration numbers, and for the state to retain copies of these documents in order to compare with their voting rolls. Washington Secretary of State Sam Reed, Washington Unable to Use Federal Immigration Databank to Check Voter Eligibility (Sept. 11, 2012), available at http://www.sos.wa.gov/office/osos_news.aspx?i=BK80EPb8m8EoaiZzeLxzUQ%3D%3D.

million registered voters, this represents one instance of voter impersonation for every 15 million potential voters.²¹ News21 also conducted an extensive survey of state and local election officials, showing that the nation has received 2,068 allegations of voter fraud since 2000.²² In the entire nation, only 56 or 2.7% of the 2,068 accusations of voter fraud since 2000 involved noncitizens casting an ineligible vote.²³ Florida, for instance, has seen eighteen allegations of voter fraud within that same period. Only one allegation resulted in a conviction; the majority were either pleaded or dismissed.²⁴ Furthermore, News21 found no allegations of voter fraud in Colorado, and found only two in Arizona, both of which were dismissed.²⁵ And in Kansas, 10 cases of alleged voter fraud—the second highest of any state—resulted in zero convictions.²⁶ Nonetheless, all of these states have asked for access to federal immigration data to purge their voter rolls.

These very recent alleged noncitizen voter purges are now the subject of pending voting rights litigation around the country. Iowa, for example, had only one case of an alleged noncitizen casting a ballot since 2000: a local newspaper reported that a German citizen had illegally voted, but the state could not confirm the allegations.²⁷ In July 2012, Iowa Secretary of State Matt Schultz issued emergency rules to compare the state's voter list against unspecified state and federal databases—and gave voters 14 days to contest the designation before removing them from the rolls. Since then, ACLU and League of United Latin American Citizens (LULAC) filed suit ⁱⁱ alleging that the purges are likely to improperly remove naturalized citizens from the rolls.²⁸ As discussed below, litigation against similar voter purges that target naturalized citizens is also underway in Florida.

In addition to the issues raised about the states' methods of deciding which voters should have their citizenship status checked, the federal SAVE immigration data is not a complete or accurate indicator of citizenship status. There is no single list of United States citizens.²⁹ The SAVE data does not contain any information about Americans who acquired citizenship by birth in the United States; rather, it only contains limited information related to some (but not all) naturalized citizens, citizens born of U.S. parents abroad, and adopted children from abroad.³⁰ By placing foreign-born citizens in a separate, disadvantaged class from U.S.-born citizens, the use of SAVE data to conduct systemic voter purges raises concerns about equal protection for all citizens guaranteed by the Fourteenth Amendment of the United States Constitution.³¹

In the 16 states pursuing citizenship purges, Latinos and other communities of color comprise a large and disproportionate percentage of the naturalized citizens who are eligible to vote but may be improperly targeted for purges. According to federal Census data, in 2006 to 2010, there were more than 1.1 million Latino naturalized citizens; 930,000 Asian American and Pacific Islander naturalized citizens; and 460,000 Black naturalized citizens. (See Table 2.) More than 75% of the total naturalized citizens in these 16 states were people of color. During the same five-year period, Latino naturalized citizens made up 51% of all naturalized citizens in the state of Florida and 62% of naturalized citizens in New Mexico—two of the states that are pursuing citizenship purges.³²

ii On Sept. 15, 2012, Polk County (Iowa) District Judge Mary Pat Gunderson issued a temporary injunction to suspend the use of SAVE to check the state's voter rolls against a list of more than 3,500 registered voters generated by the Department of Transportation's records of immigrants who obtained driver's licenses. Secretary of State Matt Schulz said that "this ruling could open the door for noncitizens to continue voting in Iowa elections," while League of United Latin American Citizens of Iowa President Joe Enriquez Henry said that, "We hope the ruling eliminates any fears Latino Iowa citizens had in exercising their right to vote, and that the Latino community will come out in full force on Election Day." Jason Noble, Judge Suspends New Voting Rules, Des Moines Register (Sept. 15, 2012), available at <http://www.desmoinesregister.com/article/20120915/NEWS09/309150027/Judge-suspends-new-voting-rules>

Table 2: Naturalizations of Color in States Pursuing Alleged Noncitizen Voter Purges

State	Total Naturalizations	Hispanic or Latino	Black or African American	Asian American	Percent Minority Naturalizations
		Percent of Naturalized Population	Percent of Naturalized Population	Percent of Naturalized Population	
Alaska	24,772	14.73%	4.19%	53.99%	72.91%
Arizona	289,578	48.27%	2.57%	19.58%	70.42%
Arkansas	34,745	39.28%	2.81%	30.77%	72.86%
Colorado	158,669	28.95%	4.01%	30.19%	63.14%
Florida	1,667,068	50.99%	17.27%	10.94%	79.20%
Georgia	307,045	20.48%	24.14%	32.76%	77.39%
Iowa	44,755	25.40%	4.38%	38.13%	67.91%
Kansas	57,708	34.51%	4.16%	37.46%	76.13%
Michigan	286,257	8.58%	3.45%	28.71%	40.74%
New Mexico	62,168	62.14%	1.60%	15.95%	79.68%
North Carolina	195,984	25.30%	10.55%	32.84%	68.70%
Ohio	212,015	9.73%	8.46%	30.43%	48.62%
Texas	1,245,278	54.27%	4.88%	27.48%	86.63%
Tennessee	84,812	20.54%	8.93%	33.70%	63.17%
Utah	71,025	39.08%	1.58%	23.27%	63.93%
Washington	364,326	14.62%	4.88%	48.25%	67.75%

*NOTE: Naturalization Data, Source: U.S. Census Bureau, File B05001, 2006-2010 American Community Survey

What Went Wrong in Florida in 2012?

In 2000 and 2004 Florida purges were purportedly aimed at removing ineligible people with felony convictions from the rolls, but instead they erroneously identified tens of thousands of eligible citizens with no criminal records. These purges disproportionately harmed African Americans, who in 2000 showed up on Election Day to find that their names had been wrongfully removed from voter lists. *The New York Times* analyzed the impact of the illegal purge, “In a presidential-election battleground state that decided the 2000 race by giving George W. Bush a margin of only 537 votes, the effect could be significant: black voters are overwhelmingly Democratic, while Hispanics in Florida tend to vote Republican.”³³ But with the subsequent influx of nearly half a million Puerto Ricans in Central Florida and the changing loyalties of other Florida Latinos who are now more likely to vote Democratic, the purges have taken on a different target this year.

In April 2012, Florida initiated an admittedly inaccurate voter purge of alleged noncitizens.³⁴ At least 82% of those on Florida’s April 2012 purge list of 2,600 registered voters are Latino, Black, or Asian American.³⁵ In Miami-Dade County, where most of the targeted voters live, more than 98% of 562 people who responded to notice letters proved that they were indeed eligible U.S. citizens and thus mistakenly placed on the purge list.³⁶

The state only recently slowed its purge efforts in response to public outcry, community organizing, and multiple lawsuits—including one by Advancement Project—alleging that Florida’s program violates the Voting Rights Act ⁱⁱⁱ and the National Voter Registration Act.³⁷

Karla Vanessa Arcia and Melande Antoine, U.S. citizens originally from Nicaragua and Haiti, respectively, are among those erroneously placed on Florida’s purge list, having already taken the oath of citizenship and completed all legal requirements to become naturalized citizens. They received letters saying they had to prove their citizenship within 30 days or they could not vote, and they are now plaintiffs in Advancement Project’s litigation challenging the practice.³⁸ Others like Bill Internicola, a 91-year-old World War II veteran born in Brooklyn, N.Y., and Maureen Ross, a small business owner and registered voter who has voted for 40 years at a church around the corner from her home, also found themselves on Florida’s flawed purge list.

B. State laws requiring documentary proof of citizenship to register to vote

As with the voter purges based on alleged noncitizenship, state laws requiring documentary proof of citizenship—such as a certified birth certificate, passport, or naturalization papers—to register to vote were previously unheard of in the U.S. This is most likely because federal law already provides more than sufficient protections against noncitizens registering to vote. That changed in 2004 when Arizona passed Proposition 200, which required prospective voters to provide specific documentary proof of citizenship to register to vote.³⁹ State records show that between 2005 and 2007, about 31,000 Arizona voter registration forms were rejected because they did not provide sufficient documentation of citizenship.⁴⁰

On April 17, 2012, a federal Court of Appeals struck down Arizona’s documentary proof of citizenship voter registration requirement, ruling that it was pre-empted by the National Voter Registration Act (NVRA).⁴¹ The NVRA was enacted to increase voter registration in the United States by making it easier, not more difficult, to register to vote.⁴² Arizona has petitioned for review by the U.S. Supreme Court.⁴³

Since 2010, 14 states have introduced legislation requiring proof of citizenship. Documentary proof of citizenship is currently required as a precondition for voter registration in Georgia, and it may be required in Alabama and Arizona later.

Alabama, where an estimated seven percent of eligible voters lack the documents needed to prove citizenship, still must obtain preclearance of the law by the Department of Justice as required by the Voting Rights Act. Arizona’s law is pending at the U.S. Supreme Court. Kansas has also enacted a proof of citizenship law, but it does not go into effect until 2013. In 10 additional states, legislation to require documentary proof of citizenship for voter registration has been proposed, but so far, failed to be enacted. (See Appendix 2.)

Confusion about proof of citizenship requirements resulted in voters being turned away during Michigan’s August 2012 primary elections. After Governor Rick Snyder vetoed legislation that would have required voters to confirm citizenship at the polls, Secretary of State Ruth Johnson added a citizenship confirmation checkbox to ballot applications for the state’s August 7, 2012 primary, and some voters were reportedly denied the right to vote for failing to fill out the box.⁴⁴

ⁱⁱⁱ Advancement Project and co-counsel, on behalf of several organizational and individual plaintiffs, negotiated a settlement with Florida’s Secretary of State in which the Secretary agreed to restore the 2,600 voters it identified as alleged noncitizens to the voting rolls (unless they were among the very few who admitted they were noncitizens). The Secretary agreed that no registered voter should be required to cast a provisional ballot due solely to his or her inclusion on any prior list of potential non-citizens, and will inform county Supervisors of Elections (“SOEs”) that “the presence of any individual on the prior lists of potential noncitizens should not be interpreted as a determination of that individual’s eligibility to vote.” Stipulation of the Parties at 2, *Arcia v. Detzner*, No. 1:12-cv-22282-WJZ (S.D. Fla., Sept. 12, 2012). This is the first time that Florida has adopted these types of remedial measures to undo the damage caused by its purges of voters of color. In exchange, the plaintiffs dropped their discrimination claims under section 2 of the Voting Rights Act and section 8(b) of the National Voter Registration Act, but left open the possibility of further litigation regarding the prohibition against purging within 90 days of a federal election, as we are uncertain as to how Florida will use its new access to SAVE data.

Until these recent laws, people registering to vote could establish a range of eligibility requirements – including voting age, citizenship, and residency – by swearing under penalty of perjury their compliance with these requirements. Once their registration was accepted they did not have to present further proof at the polls. Federal law imposes severe penalties for intentionally and falsely claiming eligibility to vote, including up to five years in prison, \$10,000 in fines, and *deportation*.⁴⁵ These new voter registration laws require Americans to vote to provide documents that state officials deem satisfactory to prove citizenship. This means providing a certified birth certificate, passport, or naturalization papers, all of which impose significant time and financial burdens, among others. As discussed further with respect to the barriers posed by the restrictive new photo ID laws, requiring additional documentary proof of citizenship disproportionately affects Latino citizens, particularly newly naturalized citizens. Latinos also have one of the highest percentages of poverty of any racial or ethnic group in the United States and are more likely to rely on public transportation, and thus face more difficulty procuring the necessary documentation.⁴⁶ (See Sections IV and V of this report for information about actions needed to combat this form of voter suppression.)

C. Photo ID Laws

Nine states have enacted strict laws requiring photo identification before permitting registered voters to cast a regular (as opposed to a provisional) ballot, and five of these states' restrictive photo ID laws are currently in effect. (See Appendix 3.) A total of 37 states have enacted some form of voter ID law;⁴⁷ however, this report focuses on the strictest form, which requires an unexpired, government-issued photo ID and has a proven disparate impact on voters of color. These new photo ID laws are notable for how restrictive they are; they severely limit acceptable forms of ID that voters may show at the polls to current, state-issued photo IDs, generally eliminating common forms of identification such as veteran's ID cards, utility bills, student IDs, social security cards, and out-of-state and expired driver's licenses. Advancement Project's litigation challenging such laws in Pennsylvania, Texas, and Wisconsin has re-affirmed the findings of numerous studies that these restrictive photo ID requirements have a discriminatory impact on Latinos and other citizens of color.⁴⁸

It can be difficult, costly, and sometimes impossible to get the type of state-issued ID needed to vote.⁴⁹ In order to obtain a state-issued photo ID, most states require up to four underlying forms of identification to prove legal presence, identity, and residency. Such identification may include a certified birth certificate, a passport, and/or social security card, which must be paid for or tracked down.⁵⁰ Many such records have errors or the names do not match. For those born at home, informally adopted, or whose records were destroyed, these documents may not exist at all. In some states, the wait to get a copy of a birth certificate or other records can be months.⁵¹

It is estimated that 16 percent of Latinos do not possess a requisite photo identification compared to six percent of non-Hispanic Whites.⁵² Due to the invalidation of Puerto Rican birth certificates issued before 2010, stateside Puerto Ricans face a double burden: first, they have to obtain a new Puerto Rican birth certificate; then they must then use this certificate to apply for an official state photo ID.⁵³ Mexican Americans and other Latinos also experience the harsh impact of these restrictive photo ID laws.

Advancement Project's litigation has revealed strong evidence of this disparate racial impact.⁵⁴ In *Applewhite v. Pennsylvania*, Plaintiffs' expert, Dr. Matt Barreto, testified that his research revealed that Latinos were more likely to lack an acceptable ID.⁵⁵ In Wisconsin, another university study found that 57% of Latino and 78% of African-American, young men lacked a driver's license, compared to 36% of young White men.⁵⁶ In Texas, based on the state's own data, Latino registered voters are approximately 46% to 120% more likely to *not* possess a driver's license or other state-required photo ID compared to non-Latino registered voters.⁵⁷

This year's litigation of photo ID laws has also led to independent studies and clear evidence that in-person voter fraud, which voter suppression laws are purported to protect against, is virtually nonexistent. For example, in Pennsylvania, the state admitted that there were zero instances of in-person voter fraud.⁵⁸ The recently-released News21 Carnegie-Knight investigative report about voter fraud in the U.S found only 10 cases of alleged in-person voter impersonation since 2000.⁵⁹ After an "exhaustive public records search," News21 found that "the rate [of voter fraud] is infinitesimal, and in-person voter impersonation on Election Day, which prompted 37 state legislatures to enact or consider tough voter ID laws, is virtually non-existent."⁶⁰

Additionally, the Justice Department has found that in places like Texas, it would be more difficult for Latino voters and other people of color to obtain the required photo ID as approximately 401,000 Latinos and 93,000 Blacks live in 127 Texas counties without access to an ID-issuing office. Compared to other racial or ethnic groups, the Latino community has a high level of poverty and relies heavily upon public transportation to get to these offices.⁶¹ The time and financial costs entailed by the new photo ID laws pose real barriers to voting for many Latino citizens and their families. Restrictive photo ID laws in all or parts of these five states are now in place for the 2012 elections:

Georgia, Indiana, Kansas, Pennsylvania, and Tennessee.

More than 750,000 eligible Latino voters live in these five states. (See Table 3.)

Four other states have enacted photo ID requirements that are not in effect either due to federal preclearance proceedings or ongoing litigation:

Mississippi, South Carolina, Texas, and Wisconsin.

There are more than 4.7 million eligible Latino voters in these four states. (See Table 3.)⁶²

Table 3: Strict Photo ID Laws

State	Latino Citizens of Voting Age Population (HCVAP)	Percent of Latinos Comprising electorate
Enacted, in effect for all or part of state		
Georgia	194,000	2.95%
Indiana	102,000	2.20%
Kansas	68,000	3.45%
Pennsylvania	323,000	3.46%
Tennessee	72,000	1.58%
Subtotal	759,000	
Enacted, could be in effect in 2012		
Mississippi	8,000	0.38%
South Carolina	45,000	1.35%
Wisconsin	96,000	2.31%
Subtotal	149,000	
Total Potentially Enacted	908,000	
Enacted, not in effect in 2012		
Alabama	65,000	1.90%
Rhode Island	53,000	7.11%
Texas	4,376,000	28.41%
Total	4,494,000	

*NOTE: Hispanic Voting Population Data, Source: U.S. Census Bureau, Current Population Survey, November 2010.

III. Impact of State Voting Policies on the Latino Electorate

There are 23 states in which citizenship-based purges, registration barriers, and/or photo ID restrictions are in effect or could be in effect by the 2012 elections. There are more than 10 million eligible Latino voters in these states who could be deterred or prevented from voting in the 2012 elections due to these barriers.

In Colorado, Florida, and Virginia, the number of eligible Latino citizens that could be affected by these barriers exceeds the margin of victory in each of those states during the 2008 presidential election. In Florida, eligible Latino voters amount to nine times the 2008 margin of victory, and unregistered Latinos constitute four times the margin of victory. In Colorado, eligible Latino voters are twice the 2008 Presidential margin of victory, while unregistered Latino citizens alone exceed the margin of victory. (See Table 4.)

In other swing states like Ohio and Pennsylvania, eligible Latino citizens comprise approximately half of their state's 2008 presidential margin of victory. In Iowa and Wisconsin, eligible Latino voters are one-fourth and more than one-fifth of the 2008 margin of victory, respectively.

In contested states like Arizona and New Mexico, where there are sizable Latino populations as in Florida, the numbers also are staggering. Eligible Latino voters in Arizona comprise five times the 2008 margin of victory there, and unregistered Arizona Latino citizens alone are twice the margin of victory. Similarly, in New Mexico, eligible Latino voters are four times the state's 2008 Presidential margin of victory, and unregistered Latino citizens alone exceed the margin.

Table 4: States, Barriers, and the Latino Electorate

State	Voter Purge	Documentary Proof of Citizenship for Voter Registration	Voter ID Laws	Hispanic Citizen Voting Age Population (HCVAP)	Number of Eligible Latinos Voting in 2010 Election	Untapped Vote	Margin of Victory for 2008 Presidential
						Number of Eligible Latinos Who Did Not Vote	
Alabama		x		65,000	14,000	51,000	453,067
Alaska	x			20,000	7,000	13,000	70,247
Arizona	x	x		1,061,000	407,000	654,000	195,404
Arkansas	x			48,000	10,000	38,000	215,707
Colorado	x			455,000	144,000	311,000	214,987
Florida	x			2,100,000	863,000	1,237,000	236,450
Georgia	x	x	x	194,000	46,000	148,000	204,636
Indiana			x	102,000	19,000	83,000	28,391
Iowa	x			38,000	10,000	28,000	146,561
Kansas	x		x	68,000	20,000	48,000	184,890
Michigan	x			171,000	68,000	103,000	823,940
Mississippi			x	8,000	3,000	5,000	169,935
New Mexico	x			516,000	183,000	333,000	125,590
North Carolina	x			182,000	80,000	102,000	14,177
Ohio	x			128,000	38,000	90,000	258,897
Pennsylvania			x	323,000	79,000	244,000	620,478
South Carolina			x	45,000	4,000	41,000	172,447
Tennessee	x		x	72,000	19,000	53,000	391,741
Texas	x		x	4,376,000	1,012,000	3,364,000	950,695
Utah	x			71,000	13,000	58,000	268,360
Virginia			x	254,000	48,000	206,000	234,527
Washington	x			259,000	77,000	182,000	521,632
Wisconsin			x	96,000	38,000	58,000	414,818
Total				10,653,000	3,202,000		6,917,586

*NOTE: Margin of Victory, Source: CNN, <http://www.cnn.com/ELECTION/2008/results/president/>

*NOTE: Hispanic Voting Population Data, Source: U.S. Census Bureau, Current Population Survey, November 2010.

IV. Advancement Project's Litigation and Advocacy Efforts

Advancement Project works with national partners and community-based groups across the country to fight voter suppression and protect the fundamental rights of voters of color. We use a multi-faceted strategy driven by community-based concerns and employ litigation, advocacy, communications, community outreach, and education to protect voting rights. Our 2012 voter protection program includes:

- Litigation in federal court challenging the legality of flawed purge practices under voting rights laws to ensure that systemic voter list maintenance is not conducted within 90 days of a federal election and that any form of checking the voting rolls is conducted in a nondiscriminatory manner;
- Advocacy with state and federal election and immigration officials to ensure that states do not remove anyone from the voter rolls without *clear evidence* that those individuals are noncitizens; to ensure that Latino voters and other naturalized citizens are able to cast a regular ballot and are not subject to improper challenges at the polls; and to request that federal officials place strict guidelines for states' use of its immigration data;
- Community outreach and education to ensure that voters know about their rights and that the stories of communities impacted by purges and voter ID laws are heard;
- Legal actions challenging improper proof of citizenship requirements and other litigation to correct improper voter registration procedures;
- Working with voter registration groups to track registrations and engage in legal advocacy with elections officials to ensure that all eligible citizens get on the rolls;
- Tracking proof of citizenship legislation in states across the nation and participating in coalition efforts to lobby against their passage, resulting in successful efforts to block proof of citizenship bills in a number of states;
- Building community partnerships in places hit hardest by new voter registration requirements in order to build power within those communities, and to ensure that voters are educated about their rights.
- Litigation challenging photo ID laws in state and federal courts in Pennsylvania, Texas, Missouri, and Wisconsin:
 - Advancement Project intervened *Texas v. Holder* and a federal court rejected Texas' photo ID law under Section 5 of the Voting Rights Act on August 30, 2012; the state filed its appeal to U.S. Supreme Court the following day;
 - Advancement Project is challenging Wisconsin's photo ID law under Section 2 of the Voting Rights Act; the law is currently enjoined by a state court;
 - Advancement Project is counsel in a challenge to Pennsylvania's photo ID law under its state constitution; appeal to State Supreme Court filed August 16; ^{iv}
 - Advancement Project successfully litigated a challenge to Missouri's photo ID ballot initiative, which resulted in having it removed from the ballot in 2012.
- Coordinating legislative advocacy to oppose photo ID proposals in nearly a dozen statehouses across the country and leading successful advocacy campaigns urging governors to veto the laws;
- Serving as a national expert on voter ID laws nationwide through work on numerous task forces, presenting testimony to Congress on the impact of the laws and publishing a seminal report on photo ID laws;
- Building diverse community coalitions to fight photo ID proposals and help impacted voters;
- Strategic communications to help re-frame the voter ID debate nationwide, appearing frequently in local and national media (including Spanish-language media), producing a documentary video on the impact of voter ID laws; and
- Providing a variety of bilingual educational materials and community outreach strategies to help ensure that each eligible person can vote.

^{iv} On Sept. 18, 2012, the Pennsylvania Supreme Court remanded the case to the lower court to issue factual findings on whether the Commonwealth actually can get IDs into hands of voters who need them. A final decision is expected on Oct. 2. Order. *Applewhite v. Pennsylvania*, 71 MAP 2012 (Pa. S.Ct., Sept. 13, 2012).

V. Conclusions and Recommendations

Voting is the foundation of our democracy, allowing American citizens to have an equal voice in electing our government. Latino and other people of color are fast becoming a majority within the United States, and their political contributions and influence are growing as well. But in 2012, politicians in the aforementioned states are undermining voter participation by Latinos and other communities of color. Through laws targeting naturalized citizens, these politicians are threatening constitutional guarantees of equal protection. By pursuing voter purges and making it more difficult to register and vote, these state officials are impairing American democracy.

Furthermore, while beyond the scope of this report, Spanish-language ballots and Spanish-speaking poll workers are critical to the participation of almost 15 million Latino voters in states and localities covered by the language access provisions of the Voting Rights Act.⁶³

The voting rights of millions of Latino citizens are at stake. So too is the fulfillment of the United States' promise of universal franchise. Election officials should be working to increase voter registration and participation, as opposed to implementing voter suppression laws.

Therefore, we recommend that:

1. States comply with the National Voter Registration Act ("NVRA") and only conduct election list maintenance outside of the 90-day quiet period which the NVRA established to prohibit purging due to the inaccuracies and confusion it causes within 90 days before any federal election. Moreover, any checks of the voting rolls to determine whether noncitizens are registered must be conducted in a uniform and nondiscriminatory manner, and in full compliance with the protections against discrimination of the Voting Rights Act of 1965. *NVRA* §8(2)(b). Considering that out of 146 million registered voters in the United States, there have only been 56 cases of noncitizens voting in the entire nation since 2000, and that the methods used to check the voting rolls to date target naturalized citizens, the majority of whom are voters of color, we recommend that state and local election officials refrain from using their limited resources to access federal immigration data to check their voting rolls. Election officials should instead focus on more efficient ways of ensuring election integrity and take positive measures to ensure that all eligible American citizens have full and equal access to the right to vote.
2. State and local boards of elections should not require documentary proof of citizenship to register to vote, and instead should follow the NVRA on what can be required of voter registration applicants, which includes an attestation of citizenship made under penalty of perjury. *NVRA* §7(b)(2)(A)-(C). There are already sufficient federal protections against noncitizens voting, including criminal penalties; therefore state and local election officials should refrain from unnecessary and potentially discriminatory requirements for additional proof of citizenship in order to be able to vote.
3. Considering the discriminatory impact of strict photo ID laws on Latinos and other voters of color, states should repeal those laws and instead focus on other means to improve election integrity. Photo ID laws cause confusion and as shown in this report, negatively impact millions of Latino voters. In view of the fact that there have only been 10 cases of in-person voter fraud since 2000, voter ID laws are not needed and should be repealed.
4. We also recommend that all the voter suppression laws and policies detailed in this report should be repealed, and we urge the Department of Justice to expand its investigation and prosecution of voting rights violations that arise from the laws and policies discussed herein.

In order to address existing inequities in voter registration and participation, and to comply with duties to provide access to the ballot for every eligible American citizen, we also recommend that election officials uniformly:

1. Increase voter registration and voter education opportunities in high schools;
2. Extend early voting periods and evening voting hours for working families;
3. Provide same-day voter registration;
4. Produce more bilingual resources to help voters locate their correct polling places;
5. Seek partnerships with Latino advocacy and civic engagement organizations to gain advice and support in developing bilingual registration documents, voter information and education materials, and ballots, as well as in assisting Latino voters at every stage of the voting process (including providing bilingual poll workers).
6. Establish year-round bilingual voter education and outreach efforts;
7. Designate and train county election officials to conduct strategic outreach and engagement activities with the Latino community;
8. Publish information about the authority and responsibilities of election officials, as well as the criteria and process for their election or selection (in order to increase interest in the Latino community in seeking those positions);
9. Implement recruitment and retention strategies to increase the number of Latino election officials; and
10. Increase awareness and strengthen enforcement of voting rights and anti-discrimination laws in the United States.

Working together, we can ensure that every eligible citizen has a right to vote in elections that are free, fair, and accessible. Advancement Project is working with community partners across the country to challenge barriers, as well as to help local communities register and vote despite them. We believe that Latino and other communities of color fully and equally participating in our democracy advances the most fundamental of American ideals. Please contact us for more information, and join us in the call for a just democracy.



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Advancement Project is a next generation, multi-racial civil rights organization. We tackle inequity with innovative strategies and strong community alliances. With a national office in Washington, DC and two offices in California, we combine law, communications, policy and technology to create workable solutions and achieve systemic change. We aim to inspire and strengthen movements that expand opportunity for all. See www.advancementproject.org for more information.

APPENDIX 1

States Pursuing Voter Purges Based on Citizenship Status

Status	States
Already conducted citizenship-based purges or assembled purge lists based on matching state motor vehicle and voter file data	<ul style="list-style-type: none">• Colorado• Florida (in litigation)• North Carolina• Tennessee
Have requested data from U.S. Department of Homeland Security (DHS) for the purpose of conducting state voter purges based on citizenship (as of July 2012)	<ul style="list-style-type: none">• Alaska• Arizona (and five counties)• Arkansas• Colorado• Florida• Georgia• Iowa• Kansas• Michigan• New Mexico• Ohio• Texas• Utah• Washington



APPENDIX 2

State Laws on Documentary Proof of Citizenship to Register to Vote

Enacted Legislation: In Effect or Could Be in Effect	
State	Description
Alabama	Enacted in 2011 and requires preclearance by U.S. Department of Justice or federal court ⁶⁴
Arizona	Enacted in 2004, struck down by federal appeals court and state has requested review by U.S. Supreme Court ⁶⁵
Georgia	Enacted in 2008 and approved by U.S. Department of Justice in 2010 ⁶⁶
ENACTED LEGISLATION: NOT IN EFFECT FOR 2012 ELECTIONS	
Kansas	Enacted in 2011 and goes into effect in 2013 ⁶⁷
PROPOSED LEGISLATION	
<i>Passed committee</i>	
South Carolina	Introduced in 2012, passed relevant committee ⁶⁸
Utah	Failed by floor vote in Utah Senate in 2008 ⁶⁹
<i>Introduced</i>	
Connecticut	Introduced in 2011, failed to move out of committee ⁷⁰
Colorado	Introduced in 2011, failed to move out of committee ⁷¹
Massachusetts	Introduced in 2011, has not moved out of committee ⁷²
Missouri	Introduced in 2011, has not moved out of committee. ⁷³
New Hampshire	Introduced in 2011, failed to move out of committee ⁷⁴
Nevada	Introduced in 2011, failed to move out of committee ⁷⁵
Oregon	Introduced in 2011, failed to move out of committee ⁷⁶
Texas	Introduced in 2011, has not moved out of committee. ⁷⁷

APPENDIX 3

Status of State Photo ID Laws⁷⁸

Status of Bill	States
Strict Photo ID law enacted and in effect for all or part of state – voters cannot cast a regular ballot without requisite ID.	<ul style="list-style-type: none"> • Georgia • Indiana • Kansas • Pennsylvania (in litigation) • Tennessee
Non-Strict Voter ID law enacted and in effect for all or part of state – voters required to present ID but law provides some mechanism for voters who lack one	<ul style="list-style-type: none"> • Florida • Hawaii • Idaho • Louisiana • Michigan • New Hampshire (federal preclearance still pending for seven counties) • South Dakota • Virginia
Enacted and could be in effect for the 2012 elections	<ul style="list-style-type: none"> • Mississippi (<i>pending federal preclearance</i>) • South Carolina (<i>preclearance denied, pending further legal action</i>) • Texas (<i>preclearance denied, federal court held retrogressive and enjoined implementation, state then appealed to the Supreme Court</i>) • Wisconsin (<i>permanently enjoined by state court, on appeal</i>)
Enacted or on 2012 ballot but not in effect for 2012 elections	<ul style="list-style-type: none"> • Alabama (<i>pending federal preclearance would go into effect in 2014</i>) • Minnesota (<i>on November 2012 ballot as a referendum</i>) • Rhode Island (<i>enacted, effective 2014</i>)

APPENDIX 3 (cont.)

Status of State Photo ID Laws ⁷⁸

Status of Bill	States
Voter ID legislation introduced but not enacted	<ul style="list-style-type: none"> • Alaska (<i>failed floor vote in legislature</i>) • California (<i>failed to pass committee</i>) • Colorado (<i>failed to pass committee</i>) • Connecticut (<i>failed to pass committee</i>) • Delaware (<i>in committee</i>) • Florida (<i>in committee</i>) • Hawaii (<i>introduced</i>) • Illinois (<i>in committee</i>) • Iowa (<i>failed floor vote in legislature</i>) • Kentucky (<i>in committee</i>) • Maine (<i>failed to pass committee</i>) • Massachusetts (<i>in committee</i>) • Maryland (<i>failed floor vote in legislature</i>) • Michigan (<i>vetoed by governor</i>) • Missouri (<i>vetoed by governor; ballot initiative struck by court</i>) • Montana (<i>vetoed by governor</i>) • Nebraska (<i>failed floor vote in legislature</i>) • New Jersey (<i>in committee</i>) • New Mexico (<i>failed to pass committee</i>) • New York (<i>in committee</i>) • North Carolina (<i>vetoed by governor</i>) • Ohio (<i>in committee</i>) • Oklahoma (<i>in committee</i>) • West Virginia (<i>in committee</i>)

ENDNOTES

- 1 See, e.g., Juan Cartagena, Latinos and Section 5 of the Voting Rights Act: Beyond Black and White, 18 Nat'l Black L.J. 201, 215 (2004) ("[Section 5 of the VRA] represents Congress' solution to the historical exclusion of Latino communities from American political spheres."); James Thomas Tucker, Enfranchising Language Minority Citizens: The Bilingual Election Provisions of the Voting Rights Act, 10 N.Y.U. J. Legis. & Pub. Pol'y 195, 233-34 (2006) (noting that Hispanic voter registration lags far behind non-Hispanic registration, although both registration and voter turnout have increased since enforcement of section 203 began).
- 2 See *Voting and Registration in the Election of November 2010 - Detailed Tables (Modified October 2011)*, Table 2. *Reported Voting and Registration, by Race, Hispanic Origin, Sex, and Age, for the United States: November 2010*, United States Census Bureau, U.S. Department of Commerce ("Latino Voting and Registration in November 2010"), available at <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2010/tables.html>
- 3 See *State of the Hispanic Consumer: The Hispanic Market Imperative*, at <http://www.nielsen.com/us/en/insights/reports-downloads/2012/state-of-the-hispanic-consumer-the-hispanic-market-imperative.html>.
- 4 See Latino Voting and Registration in November 2010, *supra* note 2. It should be noted that the Census category for "nonparticipating citizens" includes unregistered plus registered, nonvoting citizens of voting age.
- 5 See Latino Voting and Registration in November 2010, *supra* note 2.
- 6 Katherine Culliton-González, *Time to Revive Puerto Rican Voting Rights*, 19 Berkeley La Raza L. J. 27, 58 (2008), citing Luis Raúl Camara-Fuertes, *The Phenomenon of Puerto Rican Voting* (2004)
- 7 Nancy Rytina, *Estimates of the Legal Permanent Resident Population in 2010*, Department of Homeland Security, Office of Immigration Statistics, Population Estimates (October 2011), available at http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_lpr_pe_2010.pdf
- 8 This figure is derived from the estimate that 50,000 Latino citizens turn 18 every month. See Mark Hugo Lopez and Paul Taylor, *The Congressional Reapportionment of 2010 and Latinos*, Pew Hispanic Center, at 10 (January 5, 2011), available at <http://www.pewhispanic.org/2011/01/05/the-2010-congressional-reapportionment-and-latinos/>; *The Facts on Immigration Today*, Center for American Progress (July 6, 2012), available at http://www.americanprogress.org/issues/2012/07/pdf/immigration_facts_final.pdf.
- 9 See Table 2, *infra* (summarizing U.S. Census data on naturalized citizens).
- 10 See e.g., Penda Hair and Katherine Culliton-González, *Governor trampling on voting rights*, TAMPA BAY TIMES, at <http://www.tampabay.com/opinion/columns/governor-trampling-on-voting-rights/1237324> (discussing oaths of citizenship taken by plaintiffs in *Arcia v. Detzner*, 1:12-CV-22282 (S.D. Fla. filed June 19, 2012)).
- 11 See *How the Latino community's Agenda on Immigration Enforcement and Reform Has Suffered Since 9/11*, National Hispanic Leadership Agenda's Civil Rights Committee Report at 7-8 (June 2004) ("[T]he majority of Latinos live in mixed-status households and closely-knit communities. As a result, even policies targeting the undocumented population will have a broader impact on the entire community, including spouses, children, and siblings who are in many cases either U.S. citizens or legal immigrants.").
- 12 See *infra* notes 13-19.
- 13 Letter from Colorado Secretary of State Scott Gessler to U.S. Secretary of Homeland Security Janet Napolitano (Gessler bulletin) (July 9, 2012), available at <http://www.scribd.com/doc/99815699/SOS-Sec-Napolitano-Ltr-7-9-12-FINAL>
- 14 See Charles Babington, *AP Newsbreak: In Victory for GOP, Florida Wins Access to Homeland Security List of Noncitizens*, WASH. POST (July 14, 2012), at http://www.washingtonpost.com/politics/ap-newsbreak-in-victory-for-gop-florida-wins-access-to-homeland-security-list-of-noncitizens/2012/07/14/gJQAHV16kW_story.html?hpid=z7; Letter from U.S.C.I.S. Director Alejandro Mayorkas to Florida Secretary of State Ken Detzner (June 12, 2012), at http://bradblog.com/Docs/USCIS_Mayorkas_LetterTo_FLDetzner_061212.pdf
- 15 Memorandum of Agreement Between the Dept. Homeland Security, U.S. Citizenship and Immigration Services and Florida Dept. of State/Division of Elections ("Florida MOA") (Aug. 14, 2012).
- 16 Memorandum of Agreement Between the Dept. Homeland Security, U.S. Citizenship and Immigration Services and Colorado ("Colorado MOA") (Aug. 22, 2012).
- 17 See Memorandum from Colorado Attorney General John W. Suthers to U.S. Secretary of Homeland Security Janet Napolitano re: Colorado Request for Memorandum of Understanding to Verify Citizenship of Individuals Registered to Vote in Colorado ("Suthers Memo") (July 5, 2012) at 2, available at <https://www.sos.state.co.us/pubs/newsRoom/issueFiles/2012/20120705MemoDHS.pdf>; see also June 19, 2012 Letter from Gov. R. Scott and Sec'y K. Detzner to Sec'y J. Napolitano at 1-2, available at http://www.dos.state.fl.us/news/communications/pressRelease/pdf/6-19-2012_Sec_Detzner_Letter_to_DHS_Sec_Napolitano.pdf.
- 18 See id.
- 19 Florida MOA at ¶III (Purpose), Colorado MOA at ¶III (Purpose).
- 20 Natasha Khan and Corbin Carson, Election Day Impersonation, An Impetus for Voter ID Laws, A Rarity, Data Shows, Washington Post (Aug. 11, 2012), available at http://www.washingtonpost.com/politics/election-day-impersonation-an-impetus-for-voter-id-laws-a-rarity-data-show/2012/08/11/7002911e-df20-11e1-a19c-fcfa365396c8_story.html.
- 21 Id.
- 22 Corbin Carson and News21 staff, Election Fraud in America (Aug. 12, 2010), available at <http://votingrights.news21.com/interactive/election-fraud-database/>.
- 23 Id.
- 24 Id.
- 25 Id.
- 26 Id.
- 27 Id.
- 28 See Compl., *ACLU v. Schultz*, Case No. CV-9311 (D. IA, filed Aug. 8, 2012)
- 29 See Suthers Memo at 4-6, available at <https://www.sos.state.co.us/pubs/newsRoom/issueFiles/2012/20120705MemoDHS.pdf>.

30 SAVE was designed for use by government agencies administering government benefit and licensing programs. It has other limitations on its accuracy and use, some of which are acknowledged by states seeking access to the database for citizenship voter purges. See, e.g., Suthers Memo at 6. Indeed, the SAVE system has a detailed process for correcting errors. See *The Systematic Alien Verification for Entitlements (SAVE) Program*, American Immigration Council's Immigration Policy Center (December 15, 2011), at <http://www.americanimmigrationcouncil.org/just-facts/systematic-alien-verification-entitlements-save-program-fact-sheet>

31 For further discussion of Fourteenth Amendment issues related to different classes of citizenship, see Katherine Culliton-González, *Born in the Americas: Birthright Citizenship and Human Rights*, 25 HARV. HUM. RTS. J. 127, 146-48 (2012), at <http://harvardhrj.com/wp-content/uploads/2009/09/Culliton-Gonzalez.pdf>

32 United States Census Bureau, American Community Survey, File B05001, 2006-2010, at <http://www.census.gov/acs/www/>.

33 Ford Fessedon, *Florida List for Purge of Voters Proves Flawed*, New York Times (July 10, 2004), available at <http://www.nytimes.com/2004/07/10/us/florida-list-for-purge-of-voters-proves-flawed.html>

34 Florida developed a list of more than 180,000 potential noncitizen voters by comparing data from its motor vehicle agency with the state voter file, without regard for accuracy. See Florida Department of State Webinar, *Processing Ineligible Registered Voters-Non-Immigrants* (April 2012), available at http://soc.dos.state.fl.us/pdf/EP_Webinar-Non-Immigrants-Registered_Voters_Updated_4-23-12_Accessible.pdf. As acknowledged by the state, many individuals who presented legal immigration documents in the past (e.g., when first obtaining a driver's license) may have since become citizens and are thus properly registered to vote. Florida then went ahead and sent an initial 2,600 voters from its purge list to county Supervisors of Elections with instructions on how to investigate and remove them from the rolls within a short period of time. Overwhelming evidence quickly showed that the methods used by state officials were flawed and some county supervisors from both political parties refused to implement the purge. See Answer at ¶ 20, U.S. v. Florida, No. 4:12-cv-00285 (N.D. Fla. July 3, 2012); Answer at ¶¶ 24, 43, Arcia v. Detzner, No. 1:12-cv-22282 (S.D. Fla. July 12, 2012).

35 Compl. ¶ 26, *Arcia v. Detzner*, 1:12-CV-22282 (S.D. Fla. filed June 19, 2012), available at <http://www.advancementproject.org/digital-library/publications/complaint-against-the-state-of-florida-around-illegal-purging-of-voters>.

36 See *supra* note 39, at ¶ 39.

37 See *supra* note 39. See also Advancement Project Letter to U.S. Department of Justice on Florida Purges of Alleged Noncitizens from Rolls (May 17, 2012) (urging the Department of Justice to require Florida to submit its voting changes for preclearance under Section 5 of the Voting Rights Act), available at <http://www.advancementproject.org/digital-library/publications/letter-to-doj-re-florida-purging-of-alleged-noncitizens-from-voter-roll>.

38 See *supra* note 39.

39 See Ariz. Rev. Stat. § 16-166(F), available at <http://www.azsos.gov/election/2004/info/PubPamphlet/english/prop200.htm>

40 Response to Appellees' Petition for Rehearing En Banc at 4, *Gonzalez v. Arizona*, No. 08-17094 (9th Cir. Dec. 20, 2010).

41 See *Gonzalez v. Arizona*, 677 F.3d 383 (9th Cir. 2012).

42 National Voter Registration Act of 1993, 42 U.S.C. Section 1973gg et seq., available at <http://www.fvap.gov/resources/media/nvrlaw.pdf>.

43 Application for a Stay Pending Filing and Disposition of a Petition for a Writ of Certiorari, *Arizona v. Abeytia*, No. 11A1189 (S. Ct. June 13, 2012).

44 *Voters Turned Away as Citizenship Box Creates Confusion at the Polls*, CBS DETROIT, at <http://detroit.cbslocal.com/2012/08/07/voters-turned-away-as-citizenship-box-creates-confusion-at-the-polls/>, *Citizenship check box on ballot application creates confusion in Michigan primary election* Mlive, Aug. 7, 2012, at

http://www.mlive.com/news/index.ssf/2012/08/citizenship_checkbox_creates_c.html Michigan also is one of the citizenship purge states as discussed in this report; see also Appendix 1.

45 See Enforcement of Voting Rights – Prohibited Acts, 42 U.S.C. § 1973i(c), available at http://www.law.cornell.edu/uscode/pdf/uscode42/lii_usc_TI_42_CH_20_SC_I-A_SE_1973i.pdf; Immigration and Nationality Act (INA), INA §237 (a)(3)(D) (deportation rules for falsely claiming citizenship), available at <http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-5672.html>

46 Seth Motel, *Statistical Portrait of Hispanics in the United States*, Pew Hispanic Center (Tables 31-36) (February 17, 2011), available at http://www.pewhispanic.org/files/2012/02/Statistical-Portrait-of-Hispanics-in-the-United-States-2010_Apr-3.pdf

47 See, e.g., Natasha Kahn and Corbin Carson, *Comprehensive Database of U.S. Voter Fraud Uncovers No Evidence That Photo ID Is Needed*, News 21 (Aug. 12, 2012), at <http://votingrights.news21.com/article/election-fraud/>.

48 See *Applewhite v. Pennsylvania*, No. 330 M.D. 2012 (Pa. Commw. Ct., filed May 1, 2012); *Jones v. Deninger*, 2:12-CV-00185 (E.D. Wis., filed February 23, 2012); *Texas v. Holder*, 1:12-CV-00128 (D.D.C., filed January 24, 2012).

49 See *What's Wrong With this Picture? New Photo ID Proposals Part of a National Push to Turn Back the Clock on Voting Rights*, Advancement Project (April 11, 2011) at <http://www.advancementproject.org/blog/2011/04/whats-wrong-with-this-picture>

50 See id.

51 See id.

52 See *Citizens without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification*, Brennan Center for Justice at NYU School of Law (November 2006), at http://www.brennancenter.org/page/-/d/download_file_39242.pdf

53 See *Effects of Puerto Rico Birth Certificate Invalidation on USCIS Benefit Seekers*, U.S. Citizenship and Immigration Services, available at [http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a?vgnnextoid=05e5b83235399210VgnVCM100000082ca60aRCRD&vgnnextchannel=a2dd6d26d17df110VgnVCM1000004718190aRCRD](http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a?vgnextoid=05e5b83235399210VgnVCM100000082ca60aRCRD&vgnnextchannel=a2dd6d26d17df110VgnVCM1000004718190aRCRD)

54 *Applewhite v. Pennsylvania*, No. 330 M.D. 2012 (Pa. Commw. Ct., filed May 1, 2012); *Jones v. Deninger*, 2:12-CV-00185 (E.D. Wis. filed February 23, 2012); *Texas v. Holder*, 1:12-CV-00128 (D.D.C. filed January 24, 2012). For more information on Advancement Project litigation and resources, see <http://www.advancementproject.org/our-work/voter-protection>.

55 Expert Report of Dr. Matt A. Barreto, *Applewhite v. Pennsylvania*, No. 330 M.D. 2012 (Pa. Commw. Ct., July 16, 2012), available at <http://advancementproject.org/sites/default/files/Barreto.pdf>

- 56 *Testimony of Advancement Project at the Congressional Youth Roundtable: The Voices of a Generation Deserve to be Heard*, August 1, 2012, at http://advancementproject.org/news/press_releases/2012/08/statement-of-advancement-project-at-the-congressional-youth-roundtable
- 57 See Mar. 12, 2012 Letter from Assistant Attorney General Thomas E. Perez, U.S. Department of Justice Civil Rights Division, to Texas Director of Elections, Keith Ingram, *available at* <http://electionlawblog.org/wp-content/uploads/doj-texas-redistricting-objection.pdf>. Advancement Project intervened in the subsequent case in which the U.S. Department sought to deny federal preclearance of Texas' discriminatory photo ID law, <http://www.advancementproject.org/our-work/voter-protection>.
- 58 Determination on Application for Preliminary Injunction at 59, *Applewhite v. Pennsylvania*, No. 330 M.D. 2012 (Comm. Ct. Pa, Aug. 15, 2012), *available at* <http://moritzlaw.osu.edu/electionlaw/litigation/documents/DenialofPreliminaryInjunction.pdf>
- 59 Natasha Khan and Corbin Carson, Election Day Impersonation, An Impetus for Voter ID Laws, A Rarity, Data Shows, Washington Post (Aug. 11, 2012), *available at* http://www.washingtonpost.com/politics/election-day-impersonation-an-impetus-for-voter-id-laws-a-rarity-data-show/2012/08/11/7002911e-df20-11e1-a19c-fcfa365396c8_story.html.
- 60 Natasha Khan and Cobin Carson, Comprehensive Database of U.S. Voter Fraud Uncovers No Evidence That Photo ID Is Needed, News 21 (Aug. 12, 2012), *available at* <http://votingrights.news21.com/article/election-fraud/>.
- 61 See Motel, *supra* note 53.
- 62 See *2012 Voting Law Changes: Passed and Pending Legislation that has the Potential to Suppress the Vote*, Brennan Center for Justice, Jun. 28, 2012, *available at* http://www.brennancenter.org/content/resource/2012_summary_of_voting_law_changes/; *Voter Identification Requirements*, National Conference of State Legislatures (last visited Jul. 16, 2012), *available at* <http://www.ncsl.org/legislatures-elections/elections/voter-id.aspx>
- 63 There are approximately 14.8 million Hispanic Citizens of Voting Age population in the United States, who are considered to be limited English proficient ("LEP"). See U.S. Census Bureau Press Release, *Census Bureau Releases 2011 Determinations of Political Jurisdictions Subject to Minority Language Assistance Provisions of Section 203 of the Voting Rights Act*, *available at* http://www.census.gov/newsroom/releases/archives/2010_census/cb11-cn189.html. In twenty-three states and more than 200 local jurisdictions covered by Section 203 of the Voting Rights Act, there is a right to bilingual voting materials, including voter registration materials, voting instructions, ballots, and even oral assistance through fully-fluent and competent Spanish-speaking poll workers. See Notice of Determination, 76 Fed. Reg. 63602-03 (Oct. 13, 2011), *available at* http://www.census.gov/rdo/pdf/2011_26293.pdf. Jurisdictions with significant numbers of Puerto Rican voters are similarly required to provide bilingual materials and poll workers under Section 4(e) of the VRA, which is an under-utilized but powerful tool to enforce language access rights.
- 64 Beason-Hammon Alabama Taxpayer and Citizen Protection Act, 2011 Ala. Acts 2011-535 (2011) (codified as Ala. Code §31-13-28 (2012)), *available at* <http://www.ncsl.org/documents/statfed/AlabamaH56.pdf>.
- 65 Application for a Stay Pending Filing and Disposition of a Petition for a Writ of Certiorari, *Arizona v. Abeyta*, No. 11A1189 (S. Ct. June 13, 2012).
- 66 Initially, the Georgia law also applied to citizens who were updating their registrations for change of address as well. Kathy Lohr, *Georgia Allowed to Continue Voter Verification*, NPR (September 14, 2010), *available at* <http://www.npr.org/templates/story/story.php?storyId=129855592>; Aaron Gould Shenin, *Justice Department Approves Georgia Voter Verification System*, Atlanta Journal Constitution (August 23, 2010), *available at* <http://www.ajc.com/news/georgia-politics-elections/justice-department-approves-georgia-597868.html>
- 67 Kan. Stat. Ann. § 25-2309 (2012), *available at* http://www.kslegislature.org/li/b2011_12/measures/documents/hb2067_enrolled.pdf.
- 68 S. 304, 2012 General Assemb., 119th Sess. (S.C. 2012), *available at* http://www.scstatehouse.gov/sess119_2011-2012/bills/304.htm; Gina Smith, *New Voters May Have to Prove Citizenship*, THE STATE (January 27, 2012), *available at* <http://www.thestate.com/2012/01/27/2129414/new-voters-may-have-to-prove-citizenship.html>
- 69 S.B. 210, 57th Leg., (Utah. 2008), *available at* <http://le.utah.gov/~2008/status/sbillsta/sb0210s01.htm>.
- 70 H.B. 5231, 2011 Leg. Sess. (Conn. 2011), *available at* http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB05231&which_year=2011
- 71 S.B. 018, 68th Gen. Assembly (Colo. 2011); *Summarized History for Bill Number SB11-018*, Colo. Gen. Assembly (last visited Jul. 11, 2012), *available at* <http://www.leg.state.co.us/CLICS/CLICS2011A/csl.nsf/BillFoldersSenate?OpenFrameSet> (click on "Senate Bills" and then select "SB11 018.pdf")<http://www.leg.state.co.us/CLICS/CLICS2011A/csl.nsf/BillFoldersAll?OpenFrameSet>.
- 72 *Bill H. 194*, 187th Gen. Ct. of the Commonwealth of Mass. (last visited Jul. 13, 2012), *available at* <http://www.malegislature.gov/Bills/187/House/H00194>.
- 73 H.B. 2109, 2012 Sess. (MO 2012), *available at* <http://house.mo.gov/billtracking/bills121/biltxt/intro/HB2109I.htm>.
- 74 H.B. 515, 2011 Sess. (N.H. 2011), *available at* <http://www.gencourt.state.nh.us/legislation/2012/HB0515.html>;
- 75 *SB178*, Nev. Legis. (last visited Jul. 12, 2012), *available at* <http://www.leg.state.nv.us/Session/76th2011/Reports/history.cfm?ID=428>.
- 76 *House Bill 2804*, The Oregonian (last visited Jul. 12, 2012), <http://gov.oregonlive.com/bill/2011/HB2804/>.
- 77 H.B. 1338, 82nd Sess. (Tex. 2011), *available at* <http://www.legis.state.tx.us/tlodocs/82R/billtext/pdf/HB01338I.pdf#navpanes=0>; H.B. 1338, Tex. Legis. Online History, *available at* <http://www.legis.state.tx.us/billlookup/History.aspx?LegSess=82R&Bill=HB1338>.
- 78 See Map of Voter Identification Requirements National Conference of State Legislatures (NCSL), *available at* <http://www.ncsl.org/legislatures-elections/elections/voter-id.aspx>.

