

# States of Confusion

*How Our Voter ID Laws Fail Democracy  
and What to Do About It*

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## PREFACE

In a recent election year, Lila Cockrell went to the polls to cast a vote in her city's mayoral runoff. As the first female mayor of San Antonio, you can imagine her shock when election officials told her that she could not vote without a form of authorized identification.<sup>1</sup> As an elderly person who no longer drives and has no need for an ID, Cockrell could have had this situation easily addressed through a provision in Texas law that had been repealed. The state's ID requirements had only become harsher in recent years. "It was uncomfortable for the election officials to tell her, 'No.' Obviously, they knew who she was," said one of the administrators in her county.<sup>2</sup> At a time when the stakes for many elections could not be higher, outraged citizens like Cockrell have been finding themselves subject to new, frustrating barriers to voting across the United States.

The last decade has seen an exponential growth in voter documentation requirements, affecting around twenty-five million eligible voters and their constitutional right to cast a vote.<sup>3</sup> Many of the states with the strictest voter ID requirements also happen to be swing states that matter the most in general elections. During the US general election in 2020, the voter registration efforts that reduced these barriers made headlines, especially in shattering expectations for turnout among minorities, from Asian American and Black voters in Georgia to Navajo and Latino voters in Arizona.<sup>4</sup> Former Georgia House Democratic minority leader and voting rights activist Stacey Abrams and community organizations led on-the-ground voter registration drives that not only supported the election of a new president but flipped the state from red to blue—and the US Senate majority with it.<sup>5</sup> In response to these successes, hundreds of new, stricter voting laws continue to be proposed and passed in state legislatures across the nation.<sup>6</sup> Following these and other pressing developments, such as renewed attention to voter identification requirements due to an increase in the use of mail-in ballots during the COVID-19 pandemic, in this book we chart the state of voter

ID requirements and the maddening difficulties that they are creating for people, and we offer solutions for this growing challenge that is failing democracy in the United States.

*States of Confusion* surveys ten states with especially strict documentation requirements for registration and for voting. The type of broad research we conducted—the first of its kind on this issue—is the basis for a series of practical recommendations arising from our communication with citizens, state agencies, and nonprofit groups working on voter engagement and assisting eligible citizens to obtain necessary documentation. We explain the recent history of voter ID laws and offer several perspectives on the challenges voters face in complying with these requirements.

Ultimately, we find that many citizens are confused by documentation requirements and frustrated by the barriers to voter registration and voting that have been put in place in many states, particularly over the past decade. As a result, large numbers of people are being excluded by our voting system. We also find that voters in different states have vastly different experiences, raising the question of why citizens in one state should confront radically different requirements than citizens in another state.

We thus call on policymakers to adopt uniform, national voter ID standards that are simple, accessible, and cost-free. In the absence of sweeping policy changes, however, we provide interim solutions for assisting eligible citizens with voter documentation requirements through the nonprofit and community organizations closest to, and most capable of helping, those most affected by these new laws. This change would address unreasonable barriers that are preventing eligible voters from voting and provide for more equitable experiences with the voting process.

That any person faces difficulties in getting what they need to vote should be cause for alarm. Tackling new voter ID requirements is an urgent matter that will shape public participation in this country for a generation and the health of our democracy.

\* \* \*

While we were finishing this book, the COVID-19 pandemic broke out, affecting just about every person on the planet. In the United States,

we observed the challenges that voters face multiply during a presidential election year. Every issue connected to citizens' opportunities to vote underwent a political magnification, particularly with regard to mail-in voting. With the virus's very public, deep, and wide effects, it became difficult to keep political intentions private. The political parties had opposite aims: it was believed that Democrats would be aided by increased voter turnout, and that Republicans would be aided by decreased voter turnout. Amid the COVID outbreak in Wisconsin, for example, attempts to relax mail-in voting rules for a primary election were thwarted, forcing tens of thousands of voters to the polls at risk of exposure to the virus.<sup>7</sup> In Alabama the choice between protecting one's health and voting (especially for those with disabilities, the elderly, and people of color) was brought to the fore through lawsuits pointing to the significance of ID requirements: "Absentee voters are currently required to submit photocopies of their photo identification as well as sign the absentee ballot before a notary or two witnesses," impossible expectations during the pandemic.<sup>8</sup> In Kentucky, too, the issue of ID came forcefully into view when lawmakers overrode their governor's veto of a bill limiting voting only to those with a particular type of government-issued photo ID. Those who opposed the bill argued that the measure would have suppressive effects on certain voters, and they raised the question of how people could be expected to procure such an ID during a time when the government offices that supply them were closed.<sup>9</sup> Choosing to cast a vote became a matter of life and risking death.

Former US president Donald Trump and his followers asserted during the pandemic election season that voting from home would intensify election vulnerabilities, cheating, and other problems.<sup>10</sup> Continuing a running theme from across his years as president, Trump created a megaphone for claims that the election was stolen due to ballot insecurities and similar charges,<sup>11</sup> laying a foundation for everything from a violent insurrection at the US Capitol on January 6, 2021, to an insistence that audit upon audit take place in battleground states, to the establishment of even more limiting and exclusionary voter ID laws across the country.<sup>12</sup>

On the other side, advocates cited long-standing successes with mail-in voting, virtually no evidence of election integrity violations, and the vast numbers of eligible voters who already stood to be disenfranchised

by consequences of the pandemic.<sup>13</sup> Responding to claims by Trump and his followers, judges and officials (including Trump’s own appointees) and election staff at every level of government concluded that, despite the challenges of COVID, this “was one of the most secure elections in our history.”<sup>14</sup> Through the lens of ID requirements, we address these and related issues throughout this book, at a time when they have never mattered more in the United States. We find that connected problems point toward larger issues arising from our voting systems, their inequitable processes, and the consequent disenfranchisement of many US citizens.

We believe in election integrity. What became apparent in the course of our project is that many citizens feel similarly. No one wants an election to be run by anything other than the highest standards and processes for accountability, to make sure that every vote cast is valid and counted. We know that at first glance strict voter documentation requirements can seem to exist simply to enforce the law by making sure that each person will only have one vote. Yet, in practice, these laws function to exclude many citizens from this basic right by making voting far more complicated and challenging than it needs to be.

For reasons we will detail, in the absence of federal oversight, and in part arising from constitutional complexities,<sup>15</sup> states have been determining what forms of ID work for voting, reflecting arbitrary and sharply partisan preferences. Since generally speaking election processes are governed and implemented by states, it is the states that allow these inequities to increase. Technicalities have been designed to create disproportionate, racial imbalances in voting accessibility. As one report highlights, Texas doesn’t allow student ID cards but does accept concealed weapons permits for the purposes of voting.<sup>16</sup> Underscoring the potential impact of this law, “More than 80 percent of handgun licenses issued to Texans in 2018 went to [W]hite Texans, while more than half of the students in the University of Texas system are racial or ethnic minorities.”<sup>17</sup> Millions of eligible voters, or those previously eligible to vote, continue to come up against these types of obstacles constructed by policymakers who have learned that changing state-level election laws can tip the balance of power in their favor, maximizing the impact of some voting blocs while minimizing others. These developments have led the Reverend William Barber II to conclude, “Jim Crow did not



retire: he went to law school and launched a second career. Meet James Crow, Esquire.”<sup>18</sup>

Voter documentation requirements are thoroughly politicized and racialized policies designed to excise the votes of marginalized communities and partisan political enemies in the guise of protecting election integrity. These requirements follow a long and ugly history of voter suppression in the United States. Until the exclusionary effects of voter documentation requirements and many other, connected forms of suppression are overcome, it will not be possible to claim that any national or even local election is truly representative of US citizens. These are the stakes.

We hope that readers of this book do not lose sight of our main point: voting should be easy. We want readers to see and feel the infuriating frustrations that many voters continue to experience, in the hope that the crisis in voter identification requirements can be addressed and the electorate expanded through the community-informed, research-based solutions identified in this project. Everyone learning from this book can find ways to oppose voter disenfranchisement and ensure that every citizen's vote and voice count.



## Introduction

### *Voting Made Difficult*

College students don't always have their birth certificates on them, something they have at their parents' home. Not everyone has their driver's license . . . so there should be more options. Going to the DMV [Department of Motor Vehicles] is time-consuming and there is a cost, like twenty-two dollars. I myself don't currently have that to spare. Some are trying to vote to change that but can't. It feels like no one cares about me or cares for what I have to say because I can't get there. I pay taxes and everything yet can't be heard like everyone else. I feel like that's why people think their votes don't matter, because it takes so much effort and it's such a hassle that not everyone can handle to get it done. For places where it is harder for some people, they should have accommodations for everybody.

—Focus group participant, Ohio

Imagine you're a citizen who has never had problems casting your vote in an election. You consider it your duty to show up at the voting booth each Election Day, and feel proud of performing your most essential act as a participant in the life of this country. Like most people, regardless of your party or candidate preferences, you believe that every citizen deserves the right to vote and should have equal access to doing so. You also know that for many groups securing the ability to vote has historically been a hard-won right.

However, with a recent change in employment and personal circumstances, you've just moved to a different state for a new job, and the national election is around the corner next month. You hop online to find your local county election office, some thirty miles away, and realize

that it's open only during business hours Tuesday through Fridays, so you'll need to ask your new boss, with some trepidation, for time off to go register to vote. Your boss lets you head out, and you arrive at the office, equipped with an ID that always worked for election purposes in your last state. You stand in a long line for an hour and pull out your ID for the clerk, who tells you that only state photo IDs will work for voter registration, and that you'll need to bring two documents to the transportation commission to begin that process, some forty miles away in the other direction.

These documents could include a birth certificate and a utility bill with your new address on it. Although some documents you possess would present no difficulties, such as your previous state's driver license, your birth certificate was destroyed in a small basement flood last year, and you have not had enough time to get another one. You learn that a duplicate certificate costs thirty-three dollars and that the utility bill or other documents may need to be notarized (the clerk can't remember), because you also recently changed your last name due to a divorce. You make little income from your new job as is, and then there's the additional gas cost of all the driving you need to do. Exhausted and confused by this maze of requirements, and with the kids needing to be picked up from daycare soon anyway, you give up, head home, and simply decide to sit out this election cycle.

Although this may be an extreme case, stories like it are not uncommon. Even one or two of the obstacles described can easily discourage attempts to get the documentation needed to vote. Throughout the United States, many citizens face substantial challenges to registering to vote, often through a dizzying array of new documentation requirements that have arisen in many states across the past decade. Historically, one's eligibility to vote in the United States was determined at registration, with no form of identification required in any state. That changed in 1950 when South Carolina began requiring people to show ID when voting. In the 1970s, Texas, Hawaii, and Florida added the requirement, and by the year 2000, fourteen states had voter ID laws. Yet all these policies had a "fallback mechanism" if a document could not be produced, such as using a bank statement with a name and address or signing a statement attesting to one's identity under penalty of perjury.<sup>1</sup>

A turning point that led to a new era in voter restrictions occurred in 2006. Policymakers discovered new ways to restrict voting with the innovation of the photo ID, with Indiana becoming one of the first states to enact an especially “strict photo ID law” as a condition to voting, a requirement that was challenged but upheld by the US Supreme Court two years later.<sup>2</sup> Numerous states followed suit in developing strict voter ID legislation, making it difficult for many previously registered or eligible citizens to practice one of their most basic rights. If the two actions of getting people to want to register to vote and then vote have historically been a challenge in US elections, an additional preregistration set of hurdles has now been added: asking citizens to compile multiple, selective forms of documentation to meet their state’s policies for voter registration. Like the example mentioned earlier, one state may require collecting a birth certificate, a driver’s license, and other forms of ID, or may require many such documents to obtain a “free voter ID.”<sup>3</sup> In 2021, “A total of 36 states have laws requesting or requiring voters to show some form of identification at the polls,” with many proposals for stricter laws in the pipeline.<sup>4</sup>

With some quiet yet monumental changes to state and federal election procedures in the past two decades, propped up by many shaky premises and outright false narratives about US elections, voter documentation requirements for registering to vote have been engineered to change the rules of voting and win elections along politicized and racialized lines. The advancement of new voter ID laws has taken place in electorally competitive and racially heterogeneous states where those on the political right “preside over an electoral coalition that is declining in size,” as a means of maintaining control and diminishing the opposition.<sup>5</sup> The impact of these often below-the-radar policies can already be seen on a vast scale. If nothing is done to change the direction of these problematic laws and connected forms of voter suppression, it may not matter how many people get out and try to vote, if the system has been reconstructed to make sure that only some votes count.

## National Frustrations

Each of us writing this book came to this project as “pracademics” whose past work has focused on maximizing opportunities for citizens

to connect with civic life and the building of robust political systems. Some of us have worked on improving public discourse, examining what it will take for people to meaningfully participate in society from the ground up, while others have extensive backgrounds working on big-picture policy, legal, and administrative challenges in national and local government. Like many individuals and organizations around the country, we are most interested in the question: “What does it take to make democracy work as it should?”<sup>6</sup>

The more we looked into this issue, the more we became both frustrated by what we discovered and energized to do something about it. We quickly converged around a need to undertake a deep exploration of voter documentation requirements for a simple reason: we all believe that a first step toward building democracies is making sure that there are minimal burdens to accessibility in our elections and voting systems. Obstructions to voting accessibility hinder all the other means of promoting civic engagement and the most inclusive and responsive political processes possible.

After searching through literature on voter documentation requirements and related issues, we began a conversation at the City University of New York involving community stakeholders and people from different fields about this national issue. A number of studies and organizations doing fieldwork have captured snapshots of the crisis that many people face in getting what they need to vote. At the same time, many legal and policy-focused organizations are fighting battles to overturn states’ strict voter ID laws.

Building on this developing scholarly and practitioner work, we decided that a national study of voter documentation requirements, with a particular emphasis on the stories of what it is like to face these challenges in everyday life, could contribute a valuable resource, new directions, and calls to action for this critical conversation.<sup>7</sup> Numerical evidence certainly provides an important perspective on the topic (and we advance our own statistical research through a number of means in this project), but the crisis of voter documentation requirements becomes most apparent in citizens’ experiences with voting in different state contexts. Linda Alcoff has pointed scholars toward “the problem of speaking for others.” In this spirit, we attempt at every opportunity to conduct analyses that bring others’ voices to the fore.<sup>8</sup>

While there are many people working on the legal front to address these challenges, we focus on the role that nonprofits and community organizations might play in helping those who are eligible get what they need to vote. This accords with expert calls highlighting that “fighting voter ID laws in the courts isn’t enough. We need boots on the ground.”<sup>9</sup> We wanted to map the problems of voter documentation requirements and to discover what research-informed solutions local community organizations that have direct contact with citizens could suggest for addressing the challenges.

From a variety of perspectives and methods, we researched voter documentation nationally to try to understand what is happening in communities, election systems, and people’s lives as a result of these laws. In the course of our yearlong study of the problem, we found much more than anticipated, especially regarding the inconsistent or unavailable information and chaotic processes involved in contemporary voting across the United States. We discovered how voter ID challenges are connected with other forms of suppression that look innocuous on their face until their reach and impacts on elections are observed. These related challenges to voting include the alienation of citizens from government, changing and inaccessible polling sites, redistricting, and more. We have chosen to cast a spotlight on voter ID requirements because of the devastation they are wreaking across the US voting system. Yet in replicating citizens’ experiences with voter ID, readers will get to see how this stand-alone burden must be considered in the context of many other roadblocks.

We began this project as a nonpartisan study of voter documentation requirements. The results of our research, however, revealed highly partisan reasons for why voting difficulties, relative to our focus on voter ID, are largely based on successful partisan attempts to suppress certain demographics and to thwart the possibilities of success for Democratic Party candidates. Following a lengthy history of voter suppression in the United States, it became clear that voter documentation requirements are wolves in sheep’s clothing, so to speak; they support oppressive government regulations that achieve their effects in the guise of avoiding voter fraud, of which there is no meaningful or substantial evidence.

As important as it is to tell people to get out and vote, that means very little if all along politicians have been busy changing the eligible voter

base and wiping out the voices of millions of Americans by skewing the rules through both policy and practice.<sup>10</sup>

Our main argument in this book is that many citizens are confused by documentation requirements and frustrated by the barriers to voter registration and voting that have been put in place by many states, particularly over the past decade. As a result, millions of qualified voters are being lost—or, perhaps more accurately, thrust—through the cracks of our voting system. According to VoteRiders, a nonprofit dedicated to helping people get what they need to vote, more than twenty-five million Americans are affected by voter documentation requirements.<sup>11</sup> These citizens need all the help they can get to navigate the perplexing challenges that these laws now pose across the United States.

Confusion should not be a reason why people are kept away from the ballot box. Choosing one's political representatives is essential to democracy. For many people, however, confusion is the starting and ending point in their election process participation. But there are paths for moving forward.

### Multiple Viewpoints on the Citizen Experience

At the foundation of every public policy lie stories about what the world is like and how it works.<sup>12</sup> Baseless claims about voter fraud have been used to frame and sustain the disenfranchising voter documentation requirements we explore in this project.<sup>13</sup> Indeed, a sitting US president made it his cause célèbre to do so in claiming the following via Twitter: “All over the country . . . voter fraud is rampant. Must be stopped. Strong voter ID!”<sup>14</sup> It's critical to research and advance accurate narratives that can serve as a basis for good policy and implementation. This book briefly treats the purported public policy justifications for voter ID as a foil for the surprising stories from all kinds of people with a stake in voting, and provides analytic work on voter documentation requirements as a social, political, and racial challenge. Our research design and recommendations reflect our commitment to helping people facing voter documentation problems and constructed so that the evidence we have uncovered can elevate conversations about voting reforms, establish new interventions, and most of all change these pernicious policies and their disenfranchising effects across the nation.



To provide a context for this book, chapter 1 maps the current state of voter ID laws. Chapter 2 lays out our research design and process implemented nationally, involving data collection from recognized practitioners and experts on voting requirements to affected community members in some of the strictest voter ID states.

In chapter 3, we provide three broad perspectives on voter documentation requirements through statistical snapshots of how this issue affects citizens in the United States. The first perspective comes from surveys of forty-four civically engaged nonprofits, exploring what these community organizations across the United States are doing to help citizens with voter documentation requirements, registration, and voting. We learned about the difficulties these organizations and their constituents face and the strategies many of them are using. The second, eye-opening perspective emerged from our calls to 150 election offices in the strict voter ID states to understand what it is like to be a previously registered or eligible voter trying to find out what is needed to vote. The third perspective stems from a broad sample of over two hundred community members from the strict voter ID states across the United States.

In chapter 4, we move to the disconnections between citizens and systems, focusing on the breakdowns and opportunities for work on voter documentation requirements nationally. Drawing from thirty-eight in-depth interviews across the United States with experts, practitioners, and nonprofit staff, we analyze the fractures that individuals and groups face relative to governments and elections. With an eye toward what might be done to best address these issues, we construct themes that contribute to this project's overall framework.

In chapter 5, we focus more deeply on what it is like to navigate voter documentation requirements in everyday life. Through focus groups carried out in Ohio and Mississippi, we learned from approximately sixty local citizens what their own and others' experiences have been with voter ID and related challenges. From these candid and energized community conversations, it became clear that, absent significant changes in state and federal voting laws, a context-sensitive approach to addressing voter documentation requirements is necessary for building solutions both nationally and locally.

In chapter 6, we summarize the results of this project and put forth specific recommendations for a national intervention to make voter

identification easy, accessible, cost-free, and ultimately, uniform. In the absence of that kind of sweeping change, we advance specific, actionable ideas for providing eligible voters with realistic local assistance in the interim.

In the conclusion, we again pose a question raised by this entire project: Why do many eligible voters in different states have vastly different experiences? Given the United States' state-level control of elections, it makes no sense that any citizen in one state should have a much different experience from a citizen in another state. The current norm is a chaotic "state of confusion." We address the emerging challenges of REAL ID, absentee (or mail-in) voting in the context and aftermath of COVID-19, what other countries do with voting, and other topics of importance for closing the gaps between citizens and systems in US elections. Integrating our findings with work across a number of disciplines, we propose solutions for improving voting and elections in the face of current ideological divides.

## New Challenges, Old Intentions

Before we move to the next chapter, it's worth zooming out to see how voter documentation requirements align with some very old intentions. The history of the United States provides a grim litany of local laws, regulations, and their implementation that have suppressed votes. These include property ownership requirements, literacy tests, poll taxes, segregated primaries, gerrymandering, fearmongering, grandfather clauses, voter intimidation, overly punitive policies that disenfranchise former felons, redlining, malapportionment, purging voters from voter rolls (especially after periods of inaction), and creating practical barriers to vote, such as through limiting polling places, the days and times for voting, and absentee ballots.<sup>15</sup>

Even with the most generous regulations and templates for best practices, the actual effect of administrative actions, such as requiring voter ID or limiting absentee balloting—even if well-intentioned, which often they are not—is to undermine the implementation of processes that should be simple and accessible to all citizens. As Stacey Abrams says, this all comes down to "registration access, ballot access, and ballot counting."<sup>16</sup> There are enough issues in US politics with the latter two

hurdles, but if a person can't even get past the first obstacle, they won't get near the others.

In this spirit, our work affirms and adds to critical recent works by Gilda Daniels, Carol Anderson, and many others, establishing that voter suppression isn't simply a minor feature but a systemic function of the US political system as is.<sup>17</sup> In the face of these disenfranchising measures, none of us should allow our elections to continue in a regressive direction. As Daniels underscores, suppression measures such as voter ID laws always come about “after periods of minority electoral success” and “as a country, we have slept through the continuous assault on access to the ballot box in the name of stricter voting requirements, meritless claims of rigged elections, and baseless voter-fraud proclamations. These laws . . . have created a crisis . . . not only seek[ing] to abolish members of a political party but, with the same result, to eliminate voters of color.”<sup>18</sup>

The US Supreme Court has referred to voting as a “fundamental right.”<sup>19</sup> In recent years, however, laws intended to protect marginalized communities have been diluted, which leads one to question lawmakers' respect for that view. And although both Democrats and Republicans will say unequivocally that all citizens have a “right to vote,” we are seeing more and more overt statements that contradict this professed claim.<sup>20</sup>

Ironically, it's the Supreme Court itself that has most often broken its promise by laying a foundation for destabilizing voter ID laws in recent years. The Voting Rights Act of 1965 (VRA) required a federal review of changes in states' voting systems before changes could be implemented (“preclearance”). In 2013, the Supreme Court invalidated the VRA formula used to identify the jurisdictions that must preclear voting changes. The Court held that the formula was insufficiently supported by current conditions and effectively nullified the preclearance mechanism itself.

The Supreme Court reached its conclusions notwithstanding that it was, in the late Justice Ginsburg's words, “a remedy Congress designed both to catch discrimination before it causes harm, and to guard against return to old ways. . . . Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”<sup>21</sup> Congress thereafter failed to make the necessary findings to re-enact “preclearance” in a way that would satisfy the Court.

On a separate front, state policymakers have increasingly created election mazes that penalize individual constituents for failing to register or vote. Historian Heather Ann Thompson argues that journalists in particular need to stop using the claim that low voter turnout is due to apathy and instead should call “attention to the myriad barriers that have been placed there [by governments] to stop them from showing up.”<sup>22</sup> So it’s critical that governments are held accountable for their actions instead of putting the onus on citizens to hop through the challenges created by policymakers and election systems in the first place.

Most fundamentally, voter documentation requirements make a mockery of the promises of the Thirteenth, Fourteenth, and Fifteenth Amendments, abolishing slavery and establishing citizenship and the right to vote for formerly enslaved people. What’s most concerning is how quiet and hidden forms of voter suppression, like voter documentation requirements, are in achieving voter disenfranchisement.<sup>23</sup> These newer requirements are grounded in assumptions about postracialism and state sovereignty, and are different from overt forms of suppression (but certainly made more explicit in the aftermath of the US general election in 2020).

We must bring a moral megaphone to overcome these retrogressive developments. Before turning to the framework for this project, to set some context, let’s next take a deeper look at how voter documentation requirements arose, what we know about their impact, the role they have played in US politics, and their current application in and across various states.

## On the Ground

### *The Reality of Voter ID Requirements*

I was at an event yesterday, working with people who have some sort of disability and they are living in this complex, so they can get full-time assistance and not all of them have a driver's license or state ID. They don't drive. The complex didn't have a birth certificate on file for everyone who was there, so this became a hurdle for those people who wanted to register to vote there, eligible to register to vote, but do not have that proof of citizenship documentation with them, and would have difficulties getting them from the appropriate agency. It's a problem . . . and we want to make sure that everybody who wants to register to vote, can get registered to vote. It is a problem.

—Community relations director for a county record office and election department, Arizona

A week's worth of groceries. That's equivalent to what it costs many people trying to meet new voter ID requirements in their state.<sup>1</sup> Everyone knows that voter turnout matters because it determines election outcomes. Elected officials give attention to and provide resources for their constituents.<sup>2</sup> But in a perverse twist, politicians who create and sustain voter ID laws across the United States exact costs on those they are supposed to serve. Instead of doing the hard work of governing with the needs and interests of all in mind, the legislators creating these laws in effect seek to include supporters and exclude opponents from voting.

These developments may be surprising for many readers. Indeed, one of the most common and reasonable reactions people across the political spectrum have to voter ID is that, since an ID is needed for

everything from getting on a plane to procuring some over-the-counter medications, it can't be much of a burden to require it for voting as well. If it were that simple, we'd agree. But the reality is that strict ID laws for voting are not analogous to these other experiences. Take the case of Sean Reynolds, a military veteran who went to vote at his local polling place in Wisconsin.<sup>3</sup> Because Wisconsin allows same-day registration, he showed up on Election Day with his driver's license (that could easily be shown for a variety of purposes such as driving or purchasing alcohol across US states) but was denied the right to vote because he had an Illinois license. Having served in Afghanistan and Iraq, Sean left the navy and moved to Wisconsin in 2015 to pursue a degree from a nearby university in Illinois. He told a reporter, "I was a little incredulous that they wouldn't accept another state's driver's license. I didn't understand why it was not a valid form of ID." Reynolds said he had been working 50-hour weeks, receiving hourly pay, and could not afford to take time off from his job in security management to visit a local DMV and transfer his license from Illinois.<sup>4</sup> And there you have it, no vote. When it comes to strict voting ID laws, the devil is in the details.

In the 1990s and early 2000s, most US states did all they could to make it easier for citizens to vote through initiatives such as early voting and voting by mail.<sup>5</sup> Now, many states require that eligible voters provide proof of documentation before they can register to vote. Although enacted with the professed intention to ensure that election processes remain fair and just, these requirements work toward the opposite end.

Before moving to further background on the development of voter documentation requirements, their measured effects to date, and the controversies and issues that they continue to evoke across the United States, a word on terminology is in order. For this book's purposes, we will use the terms "voter documentation" and "voter identification" (or "voter ID") interchangeably to describe the documentary requirements a state may have for registering or voting. Voter documentation requirements concern the documents that one is required to show to register to vote (e.g., a birth certificate, a driver's license), which are forms of voter ID.

Yet there are two different times when voter documentation or ID can be required in some states. One is to register to vote, and the other is to present to vote at the polls, as in the prior story. In the latter case,

some states have strict photo ID requirements that one must show to poll workers, for instance. In this book, we'll focus most on the pre-registration requirement for assembling and showing documentation to register to vote, a major challenge for many citizens to overcome. At the same time, we'll observe how the additional step of needing to show ID at the polls also comes into play.

## How Did Voter Documentation Requirements Develop?

The types of voter documentation requirements now present all over the nation can partly be traced to the the US general election in 2000, in which George W. Bush appeared to have won the presidency, by a machine count, by 537 (out of nearly 6 million) highly contested votes in Florida.<sup>6</sup> Notwithstanding dozens of pending lawsuits that challenged the outcome, it was effectively let stand by the US Supreme Court in the infamous case of *Bush v. Gore*.<sup>7</sup> What happened in Florida during that election ignited a firestorm of interest in inadequate and unfair voting processes nationally with, by one count, for example, 14.4 percent of Black voters having their ballots rejected, compared with only 1.6 percent of non-Black voters in the state. In addition to fears about a presidential election being so closely contested, these events cast doubt on the result. Post-2000 election concerns about potential voting irregularities combined with an obsession among policymakers for identity and security measures nationwide after the events of 9/11. For many citizens, “instead of enlarging the vote, exercising the franchise became more cumbersome and restrictive” as legislatures created new obstacles via ID requirements and similar regulations.<sup>8</sup>

Signature verification had long been the norm for voting, but the Help America Vote Act (HAVA) of 2002 required that first-time voters now provide a wide range of acceptable forms of ID for registering to vote. Many states went beyond HAVA in mandating that all voters have ID, and also specific types of ID.<sup>9</sup> With some nineteen million potential voters across the United States lacking state IDs or driver's licenses (primarily Black, elderly, poor, and youth voters), the impact has been far-reaching.<sup>10</sup> In the following years, previously unthinkable restrictions around voting (and legal tussles over them) began emerging across the United States. But with federal oversight for state voting changes

through the Voting Rights Act of 1965 (VRA) still in place, the Pandora's box wasn't yet completely open. That monumental change came in 2013.

As mentioned in the introduction, the most dramatic result of shifts in federal oversight took place when the US Supreme Court effectively nullified the "preclearance" requirements in Section 4 of the VRA in *Shelby County v. Holder*.<sup>11</sup> It's worth diving into further detail on the 2013 case's features and impacts, since they provide one backdrop for what's "new" about voter ID requirements, what has happened in recent elections, and where the United States is heading with voting.

The VRA had required a federal preclearance of any changes in voting practices in states identified, in the preclearance process, as having a history of discriminatory practices.<sup>12</sup> In 2013, the Supreme Court voided the provision of the VRA that governed the manner of identifying which states were subject to preclearance. The Court did so on the basis that the formula for making a determination on the need for preclearance in a state was no longer necessary to protect minority voters. Dismissing the concerns of their liberal colleagues, the conservative majority on the US Supreme Court in *Shelby* effectively ruled that Congress had not shown that the preclearance protections of the VRA were necessary to protect minority voters. It is worthy of note that more than three thousand forms of voting discrimination had been blocked under preclearance by federal courts and the Justice Department between 1965 and 2013.<sup>13</sup> But ever since, starting with *Shelby*, states have been subject to minimal oversight.

In the years since *Shelby*, states have closed down thousands of polling locations, pulled back on voter registration drives in areas with large minority populations, limited early voting, and made third-party registration more difficult. They have purged voters from rolls (e.g., because of the slightest discrepancies such as omitted hyphens or the use of initials instead of full middle names); closed offices in local jurisdictions; and created selective, politicized, and racialized lists of what is sufficient for registration, invalidating even some forms of government ID.<sup>14</sup>

Favoring IDs such as driver's licenses may seem like a simple matter until one realizes that in places like Alabama, "71 percent of those in public housing are African American," and for many, public-housing IDs are the only form of identification they have. A former Alabama governor closed Department of Motor Vehicle facilities in Black counties



in one of the states with the fewest public transportation options, among a population often without cars. These “quiet bureaucratic mechanisms” serve the same purposes as more overtly discriminatory forms of suppression from the past.<sup>15</sup>

In 2016, the United States had its first presidential election in a half century without the VRA’s preclearance protections.<sup>16</sup> As states made voting harder for many citizens, effectively redefining the voting population of the United States, many offending laws wound their way through various court systems, notwithstanding some “wins.” One win was the *Fish v. Schwab* ruling invalidating “Kansas’ documentary proof-of-citizenship law that requires people, when they register to vote, to show documents to prove their citizenship.”<sup>17</sup> According to the American Civil Liberties Union (ACLU), the law violated “the National Voter Registration Act, a federal law designed to make it easier for Americans to register to vote and maintain their registrations.”<sup>18</sup> Yet the Supreme Court continues to eviscerate the VRA’s protections.<sup>19</sup> To fully understand the consequences of this recent US history, we must look beyond legal battles. The practical effects of these laws warrant closer examination.

## The Effects of Voter Documentation Requirements

How much are US citizens affected by these laws? Research shows that the laws’ impact falls disproportionately on certain parts of the population. In a widely cited early study of voter documentation requirements, the Brennan Center for Justice at New York University found that “as many as 11 percent of United States citizens—more than 21 million individuals—do not have government-issued photo identification,” and that the effects of voter ID laws have unreasonably disadvantaged the elderly, poor, and minority voters.<sup>20</sup> An updated report shows how studies confirm that about one in ten eligible voters do not have the precise government documents these shifting laws require.<sup>21</sup> Many elderly people do not have birth certificates, including Native Americans on reservations and African Americans who have faced discrimination.<sup>22</sup> One example is illustrative:

Mrs. Smith has lived in Milwaukee since 2003. She was born at home, in Missouri, in 1916. In her long life she has survived two husbands, and she

has left many of the typical traces of her life in public records. But, like many older African Americans born in the South, she does not have a birth certificate or other documents that would definitively prove her date and place of birth. After Wisconsin's voter ID law took effect, she needed a photo ID to vote. So she entered the ID Petition Process (IDPP) at the Wisconsin Department of Motor Vehicles (DMV) to get a Wisconsin ID. DMV employees were able to find Mrs. Smith's record in the 1930 census, but despite their sustained efforts, they could not link Mrs. Smith to a Missouri birth record, so they did not issue her a Wisconsin ID. She is unquestionably a qualified Wisconsin elector, and yet she could not vote in 2016. Because she was born in the South, barely 50 years after slavery, her story is particularly compelling. But it is not unique.<sup>23</sup>

These challenges do not affect people equally. In the United States, White individuals have the highest rates of identification ownership (with only about 5 percent of White people lacking ID), while approximately 10 percent of Latinos and 13 percent of Blacks do not possess photo ID.<sup>24</sup> In terms of incomes, 12 percent of those making less than \$25,000 annually do not have a photo ID, as contrasted with only 2 percent of those making over \$150,000 a year. Although many elderly people face voter ID challenges, some 15 percent of seventeen- and twenty-year-olds and 11 percent of twenty-one- and twenty-four-year-olds also do not possess a photo ID.<sup>25</sup>

Across the nation, Latinos often lack ID or the ability to acquire documentation to register to vote and ensure that their ballots will be cast and counted.<sup>26</sup> Voter documentation requirements further affect populations of women and others who have had their names changed after getting married or for other reasons. Even people with a number of government IDs who never dreamed of running into difficulties with proving their citizenship status have shared stories online of moving from one state to another and encountering substantial problems related to documentation.<sup>27</sup>

The finding that large numbers of eligible citizens do not have the necessary forms of ID for registering or voting is a constant throughout emerging scholarly literature.<sup>28</sup> Even small impediments to voting can have outsized effects on the voters who are least likely to vote.<sup>29</sup> Richard Hasen, author of *The Voting Wars*, says that "there's no question

that in a very close election, they [the US population affected by ID requirements] could be enough to make a difference in the outcome.”<sup>30</sup> Indeed, out of approximately 136 million ballots cast in the 2016 presidential election, the election result was decided by a mere 77,744 votes spread across Wisconsin, Pennsylvania, and Michigan.<sup>31</sup> And in many US states, small segments of the population have come to matter a great deal, with congressional elections easily turning on several thousand votes.<sup>32</sup>

Additional support for these conclusions comes from a Brennan Center for Justice report noting that voter ID requirements can substantially affect Americans’ voting access, especially in states such as Kansas and Arizona.<sup>33</sup> For example, some 14 percent of new registrants in Kansas (or thirty-five thousand people) were blocked by new voter documentation requirements between 2013 and 2015, which affected mainly young people and those unaffiliated with a political party, with only one-quarter of this group able to register to vote even two years later.<sup>34</sup> In general, voter ID laws tend to decrease turnout among lower-income and less-educated groups.<sup>35</sup> It is a form of disenfranchisement that runs parallel to economic inequalities across the nation.

Most telling is how these laws play out in different states. In the face of Arizona’s proof-of-citizenship-to-register law, in the state’s three most populated counties, in the new law’s first five months one-third of applicants were thrown out for documentary requirements, acting as a preregistration barrier despite voting eligibility.<sup>36</sup> In Wisconsin in 2016, too, the state’s voter ID law apparently deterred 11.2 percent of eligible registrants, with about 6 percent of nonvoters being unable to vote due to lacking ID or citing ID requirements as the reason they did not vote. Many citizens reported that they were confused about these laws and what was required.<sup>37</sup> Another study in Wisconsin found a reverse form of confusion at play. Many people thought they did not have the ID they needed to vote, when in fact they did. The findings suggest that low levels of knowledge about acceptable forms of ID correlate with a greater likelihood of being affected by these laws.<sup>38</sup>

In recent years, Georgia has become emblematic of voting battles. The state even faced corporate backlash when a series of new laws around voting were passed after the 2020 general election.<sup>39</sup> One Georgia study found that a new photo ID law suppressed votes among people lacking

specific IDs.<sup>40</sup> This study followed previous analyses finding that states having “voter ID laws have a significant, negative relationship with voter turnout compared to states without voter ID laws.”<sup>41</sup> These conclusions align with research underscoring that as monetary and nonmonetary voting costs increase, voter turnout decreases—even incremental cost increases can make a big difference in turnout rates.<sup>42</sup>

Some work poses the question whether it is possible to administer voter ID laws in a race-neutral manner. Zoltan Hajnal, Najita Lajevardi, and Lindsay Nielson found that voter documentation challenges break down along racial and ethnic lines. They write, “There are substantial drops in minority turnout in strict voter ID states and no real changes in [W]hite turnout. Latino turnout is 7.1 percentage points lower in strict voter ID states than it is in other states in general elections and 5.3 points lower in primary elections,” and “For [B]lacks, the gap is negligible in general elections but a full 4.6 percentage points in primaries. For Asian Americans, the difference is 5.4 points and 6.2 points.”<sup>43</sup> No additional characteristics used in the authors’ model, such as religiosity, education, and income variables changed the basic findings of this analysis. Given voting patterns that follow racial and ethnic lines, it is clear that one consequence is that those on the political right simply get to outvote those on the political left when strict photo ID laws are in effect.<sup>44</sup>

Despite the landmark status of this study, some called its conclusions into question, following the mixed findings in some scholarship with regard to registration and turnout.<sup>45</sup> Comparisons across studies have often been meaningless in light of extensive variation in process across and, more important, within jurisdictions, where terms can have different meanings and updates to these laws continue to be made. Mixed findings strengthen the need to understand voter ID but also to take the approach we follow in this book: to look under the hood after policy implementation. And the general direction of findings has pointed toward impacts that cannot be ignored. For example, follow-up work to the Hajnal, Lajevardi, and Nielson study in 2020 using official turnout data rather than survey results found that discriminatory turnout gaps between more and less racially diverse counties were larger in strict photo ID law states than elsewhere.<sup>46</sup> Looking at nationally representative data across nine election years, Jennifer Darrah-Okike, Nathalie Rita, and John R. Logan further found that “voter ID policies,

and especially ‘strict photo ID policies,’ have a suppressive effect on participation. Voter ID requirements can reduce the probability of self-reported voting by as much as four percentage points, enough to swing a national election,” with disproportionately suppressive effects on Latinos.<sup>47</sup>

Other work has shown that Black and Latino voters get asked for ID more than White voters, accounting for other factors.<sup>48</sup> Some researchers hence position these laws as vestiges of an “American Jim Crow belief system” still in operation.<sup>49</sup> Overall, the need for broader and deeper analyses of these issues remains critical amid these laws’ widespread and continuing rise.

The US Government Accountability Office undertook one of the most comprehensive efforts to capture these laws’ effects to date. As is the case with some research on this topic, the report relied on early data that did not reach beyond the 2012 election and the effects of stricter versions of these laws in recent years. Still, the report concluded that “of the 10 studies we reviewed, 5 found that state voter ID requirements had no statistically significant effects on voter turnout nationwide, and 5 studies found that changes in voter ID requirements had statistically significant effects on voter turnout.”<sup>50</sup> Other research, however, found that turnout was largely reduced among African American registrants in the states of Kansas and Tennessee.<sup>51</sup> In comparison to Alabama, Arkansas, Delaware, and Maine, both Kansas and Tennessee showed decreases in voter turnout in the general elections from 2008 to 2012, which the authors cite as “attributable to changes in the two states’ voter ID requirements.”<sup>52</sup>

The logistical challenges citizens face and the substantial barriers to voting have only increased since earlier research was completed. Although these studies make important contributions to mapping the voter ID territory and its effects, they have operated from a high-level view. The on-the-ground experiences of people involved with this issue remain vital to untangling how these voting dynamics work and what can be done to address them. Many of the qualitative impacts on citizens’ lives need to be better understood, and there’s a case that, even if these laws’ effects were less influential than research highlights, societies would still have a moral obligation to remove obstacles to the ballot for those who are eligible to vote. Glimpses of the known barriers that

people have faced over time demonstrate that ethical and policy problems about disenfranchisement have intensified.

### Documentation Barriers to Voter Registration

In strict voter ID states, some obstacles to obtaining voter ID include (1) a physical lack of access to offices that can provide a state ID (some five hundred thousand eligible voters in strict ID states lack access to a vehicle and live more than ten miles from a state ID office that opens more than twice a week, while ten million live more than ten miles from such an office in general); (2) costs and access to state offices for documentation (such as fees for birth certificates, the limited business hours of many state ID issuing offices, etc.); and (3) a lack of reliable information from government offices about what documents are needed. The strict voter ID states tend to lack public transportation, making travel to government offices that are open only during weekday working hours more difficult, a problem heightened in rural communities.<sup>53</sup>

One high school student sued the state of Alabama in 2015 because she needed a state voter ID provided by the DMV. But the closest DMV was open only one day a month, and there were no public transportation options to another DMV that would require a 40-mile round trip.<sup>54</sup> Raising these stakes, in Texas some voters would have to travel 176 miles roundtrip to obtain ID from the proper offices.<sup>55</sup> On the other hand, those in urban areas are also more likely to use public transportation and thus are less likely to possess a driver's license as a specific form of ID that a state may require for voting.<sup>56</sup>

Citizens remain frustrated and confused, but apparently, so do actual administrators. Voting rights lawyer Chad Dunn notes, "Sometimes government officials don't know what the law requires. . . . People take a day off work to go down to get the so-called free birth certificates. People who are poor, with no car and no Internet access, get up, take the bus, transfer a couple of times, stand in line for an hour and then are told they don't have the right documents or it will cost them money they don't have. . . . A lot of them just give up."<sup>57</sup> These policy implementation problems have raised concerns. For example, when contacted directly, some Georgia county offices provided incorrect information about documentation requirements; in other offices, election staff in the

state answering phone calls replied that they did not know much about free voter IDs.<sup>58</sup>

All this assumes that “street-level bureaucrats” are well-intentioned or aware of their biases in implementing policies. Sometimes they are not. One study of more than seven thousand election officials across forty-eight states found that “officials provide different information to potential voters of different putative ethnicities,” raising concerns about the power of local administrative gatekeepers across the election system.<sup>59</sup> Another study revealed that poll workers discriminate by using surnames as prompts for asking people for voter ID, particularly among Latinos, showing how voters of different attributes can receive unequal treatment in how laws are applied on the front lines of election work.<sup>60</sup>

Attorney and activist Molly McGrath further finds that when states cherry-pick the forms of ID required for voting, they almost always engage in exclusionary acts. McGrath spent one Election Day driving a ninety-nine-year old World War II veteran, Fred Leidel, to the DMV in a Wisconsin county. Leidel, who didn’t have a car and rode his bicycle to the polls at a local elementary school to vote that day, did not have one of the state’s acceptable IDs. The poll workers knew the man—as he was a volunteer at the school who read to kindergartners twice a week—but could do nothing under the new state ID law. They couldn’t even accept his faculty ID for teaching at the University of Wisconsin that he had previously used to vote. Although McGrath was able to get the right paperwork so that Leidel could receive an ID and cast a ballot, she notes, “In my line of work, stories like Fred’s are not uncommon . . . unfortunately they do not all end with a vote being counted.”<sup>61</sup> Even military veterans have run into substantial challenges related to ID.<sup>62</sup> Without uniform policies nationally, voting rights activists are left to take up the cause locally, helping people get what they need to vote on a case-by-case basis.

Richard Sobel at Harvard Law School undertook an extensive analysis of the time, travel, and other expenses involved in getting a “free” voter ID in relevant states, breaking down the exact costs to eligible voters. He concluded that the instructions for how to get a free voter ID are frequently distorted, incomplete, and difficult to find. Sobel found the burdens placed on voters whom these laws most affect striking.<sup>63</sup> When legal help is required to get documentation together, costs can be

as high as \$1,500, and “when aggregating the overall costs to individuals for ‘free’ IDs in all voter ID states, plus the costs to state government for providing ‘free’ IDs, the expenses can accumulate into the \$10s of millions per state and into the multiple \$100s of millions nationwide.”<sup>64</sup>

If there’s any trend arising from efforts to make voting more accessible in the United States, it’s that many policymakers quickly engineer obstacles to block any gains made. In Florida, after a bipartisan 2019 constitutional amendment was passed by referendum to end a lifetime voting ban for those who had served their sentences for felony convictions, lawmakers created an additional, extraordinary legislative requirement that legal debts such as fees, fines, and restitution be paid before these individuals (who had served their time) could vote—making the payment of court costs a condition for voting.<sup>65</sup> This type of maneuver connects voter documentation challenges with the thicket of other barriers to voting that people face. Navigating the voting system is a confusing journey through multiple issues for millions of people. Complicating an already complicated picture, however, there’s another consideration to add to what’s known about these requirements: how they reflect the nation’s polarized political climate.

## The Politics of Voter ID Laws

Voter ID laws cannot be separated from the political polarization that is rampant in the United States. Like many other political issues affected by the well-documented divisions found throughout the country,<sup>66</sup> distinct perspectives on voter documentation requirements break down largely along party lines.

Conservatives are concerned about the potential for voter fraud and expect that restrictive ID laws will ensure the integrity of election systems. Liberals focus on the potential for these laws to suppress and disenfranchise many eligible citizens. Those on the right tend to rely on historical anecdotes in support of their claims, often citing the corruption of the Tammany Hall era when ballot boxes were rigged and the very rare cases of voting interference that do exist, while those on the left highlight the legacies of the Jim Crow South and its violent suppression of Black people.<sup>67</sup> Yet no other narrative has captured conservatives’



imaginations, policy designs, and current approaches to electioneering more than stories about “voter fraud.”

Voter fraud allegations have a long history in US politics.<sup>68</sup> Hans von Spakovsky of the Heritage Foundation describes the main issues of concern for conservative lawmakers, including fictitious voter registrations, impersonation fraud, double voting by those registered in different states, and voting by noncitizens.<sup>69</sup> Citing instances of voter fraud and abuse in his and other states, Kansas’s former secretary of state, Kris Kobach, notes, “You can’t cash a check, board a plane, or even buy full-strength Sudafed over the counter without ID. Why should voting be different?”<sup>70</sup> From the other side, the ACLU finds a lack of evidence of any significant voter fraud, noting that these laws are discriminatory and deprive many citizens of the right to vote.<sup>71</sup> Similarly, Supreme Court justice Ruth Bader Ginsberg called Texas’s voter ID laws “purposely discriminatory,” while former US attorney general Eric Holder likened voter ID laws to poll taxes.<sup>72</sup>

Even though voter fraud in the form of individual voter impersonation is exceedingly rare, the hard data have not obviated conservatives’ stated fears. Nowhere did this come to the fore more than in the period following the 2020 general election, when despite recounts, audits, and more, at least half of Republicans still believed baseless claims that voter fraud had a significant impact on the results.<sup>73</sup>

The data over many years contradict voter fraud claims. Across a fourteen-year period, “a comprehensive investigation of voter impersonation [found] 31 credible incidents out of one billion ballots cast throughout the United States.”<sup>74</sup> The News21 journalism consortium related that there has been only one case of voter fraud found per 14.6 million voters, making it more than twelve times less probable than being hit by lightning.<sup>75</sup> A running theme in work examining claims of voter fraud is that policymakers and others extrapolate from such rare examples wildly exaggerated conclusions that the evidence cannot support.<sup>76</sup> This illustrates what social scientists call a “third-person effect,”<sup>77</sup> where the issue may not affect oneself (i.e., with this issue, those claiming voter fraud don’t necessarily know anyone or any election office locally who has engaged in voter fraud) but is seen as impacting all kinds of unidentified election offices and voting jurisdictions “out there.”

Election expert Ian Vandewalker writes in summary that “everyone agrees election integrity is important, and the rules must be enforced. At the same time, protections against noncitizens registering to vote should be proportionate to the threat,” since “it is extremely rare for noncitizens to attempt to register, and when they do it is typically because of ‘mistaken understandings of the eligibility requirements’ rather than intent to commit fraud.”<sup>78</sup> Charles Stewart III, describing a case in New Jersey involving a council vice president and three others, points out that where clear cases of fraud do exist, they almost always involve local elections where the miscreants manipulate a small numbers of ballots—and get caught. In contrast, it would not be possible to manipulate sufficient numbers of ballots in a statewide or general election, involving hundreds of thousands or millions of ballots. The number of coconspirators alone needed to accomplish an upset win would by itself make success impossible.<sup>79</sup> Contrary to the assertions of some politicians, mail-in balloting, in particular, is a relatively secure procedure that has multiple steps and guardrails built in to protect each person’s vote.<sup>80</sup> Voter fraud rarely happens, and, when it is put to the test, recent investigations have come up with vanishingly thin support.<sup>81</sup> Some journalists have therefore called assertions about voter ID fraud “a solution in search of a problem.”<sup>82</sup>

Researchers find that party identification conditions the connection between confidence in state elections and photo ID laws, with Democrats in strict photo ID states less confident and Republicans more confident about their respective states’ elections.<sup>83</sup> Since the US general election in 2000, conservative administrations have “prioritized prosecutions of voter fraud over investigations into voter disenfranchisement.”<sup>84</sup> Some Republican partisans have even publicly asserted that strict voter ID laws help their party.<sup>85</sup> Others point out that there’s a type of “projection” occurring in claims of voter fraud and similar political positioning, as often Republicans are found guilty of actual voter fraud, despite the rarity of these events.<sup>86</sup> But one consideration for moving forward is that most voters, both Republicans and Democrats, appear to support some version of these laws for their expected potential to keep elections fair and valid.<sup>87</sup> We will return to this important point in subsequent chapters.

It’s critical to take all rationales into account to help eligible or previously registered voters get what they need to vote. To understand the development of voter ID laws, let’s briefly turn to our present moment.

## The Current State of Voter ID Laws

Although voter ID laws continue to make news, what's less obvious is that these laws have both tightened and loosened in different states. While many states have enacted and sustained voter ID laws that have made it more difficult for many eligible voters to gather documentation to vote, some have undergone legal challenges that have had the effect of turning formerly strict ID states into lenient ones. Texas, for example, has been a state where voter ID laws have shifted from strict to lenient and back again over time. During the course of our research, stricter voter ID requirements returned with force to the political agenda in North Carolina, while some of the strictest requirements of a law in Kansas were invalidated.<sup>88</sup> While we were gathering data for this project, the US Supreme Court also let a North Dakota court decision stand, requiring citizens to possess proof of residential street addresses for eligibility to vote in the midterm elections, disproportionately affecting Native Americans living on tribal lands where residential addresses are not the norm.<sup>89</sup> South Dakota lawmakers have also rejected tribal IDs for voter registration, the very same IDs that are acceptable by federal agencies for everything from going through airport security to voting.<sup>90</sup> Amid these laws' fluctuations, however, the trend is toward strict voter ID laws.<sup>91</sup> The Brennan Center has useful interactive maps showing the increase in strict voter ID states and laws that we encourage readers to view.<sup>92</sup> The maps provide a bird's-eye view of how different states have aggressively sought to both limit and expand access to voting after the 2020 US general election.<sup>93</sup> Even those states with less strict laws continue to present citizens with substantial barriers to getting the documentation that they need to vote.<sup>94</sup> For comparative purposes, states that do not currently have voter ID laws usually have "nondocumentary" ID provisions that allow voters to verify their identity through, for example, signing poll books or affidavits, or by providing addresses or birth dates.<sup>95</sup> In contrast to these easier processes, documentary forms of ID can impose substantially different costs in money and time for voters. For instance, birth certificates can run between \$15 and \$30. New or updated passports cost more than \$110, and it costs \$345 for a certificate of citizenship or replacement naturalization certificate. The costs for document delivery services must be added to these numbers.<sup>96</sup> In states

such as Pennsylvania, the costs for non-driver photo ID rose by 104 percent in a single year as a result of legislative change.<sup>97</sup> The monetary and nonmonetary barriers presented by documentary requirements do not even begin to reflect many of the additional concerns discussed later in this book, such as the time it takes for government agencies to process information that can put citizens up against voter registration deadlines, nor do they include the many people who will not have these documents readily at hand for voter registration drives.<sup>98</sup> Indeed, any “policies that impose a financial hardship, create confusion, limit access to the ballot, dilute the vote geographically, or use subjective measures of eligibility” contribute to the disenfranchisement disproportionately experienced by marginalized communities.<sup>99</sup> Yet it appears that there is no established routine for alerting many voters to less demanding ways of registering to vote.

A real-life example is telling. Anthony Settles, a retired engineer, lived in Texas and had an expired ID card, a Social Security card, and a past student ID from time spent at the University of Houston decades ago. Yet the only document he could use to satisfy the requirement to vote in a presidential election was an up-to-date Texas photo ID. To receive one, a name matching his birth certificate was required, but when he was fourteen years old his mother changed his last name after marrying. So when Texas established a new ID law, Settles was asked for a 1964 name-change form to get an ID to vote. He had to enlist the assistance of lawyers to search Washington, DC, courthouses for the certificate, but came up short. Settles was basically asked to find a way to prove his name of fifty-one years, for a process that would cost more than \$250, which he was understandably unwilling to pay. As he summarized, “It has been a bureaucratic nightmare. . . . I feel like I am not wanted in this state.”<sup>100</sup>

The state-level challenges that people such as Settles face are compounded by a number of additional factors. An often insurmountable problem for getting documentation and meeting voting deadlines is that “90 million eligible voters—45 percent of the population—moves every five years,” with many assuming, incorrectly, that they do not need to re-register to vote in their new states (or request to have their names taken off voter lists for their previous address).<sup>101</sup> And, while all states that require voter ID do accept local driver’s licenses, “no two states have the same overall requirements.”<sup>102</sup>

On a more hopeful note, no law needs to remain static. As a report on the costs of voting makes clear, improving even one policy for voting can have the effect of “increasing access to the ballot in a state.” For example, “Virginia moved from its position as 49th most difficult state all the way up to 12th between 2016 and 2020” due to new legislation that eliminated in-person registration deadlines.<sup>103</sup>

The National Conference of State Legislatures (NCSL) has tracked shifts in voter ID requirements over time, and at the beginning of our data collection, we followed the NCSL’s report showing the strictest voter ID states.<sup>104</sup> We selected ten states for our research that all fell within the NCSL’s “strict photo ID” category. There were states that required an ID like a driver’s license. At the time, these included Georgia, Indiana, Kansas, Mississippi, Tennessee, Virginia, and Wisconsin. We examined “strict non-photo ID” states that at that time required an item such as a utility bill. These included Arizona, North Dakota, and Ohio.<sup>105</sup> (See appendix A for the NCSL’s details for in-effect documentation requirements, indicating what voters need in each of these states). Taken together, these states constitute a major portion of the Electoral College votes in US elections.

## Voter Documentation Assistance

Examining the exclusionary effects of voter documentation requirements raises the question: What organizations exist that can assist eligible voters with the documentation that they need to vote? Many analyses focus the issues of distance, cost, and the uphill battles that many citizens face in obtaining voter IDs in counties and states where voter ID laws apply.<sup>106</sup> Other than the descriptive and effects-based accounts of voter ID laws, we found only two reports concerning how to help US citizens with voter documentation requirements.

One study revealed that mailed get-out-the-vote messages with details about an ID requirement and how to get help appear more impactful than messages that speak only to the need to bring proof of ID for voting, and even influence turnout among others in one’s household.<sup>107</sup> Another report by Tova Andrea Wang, prepared at the inception of many of these states’ documentation laws, involved interviews with organizations in Wisconsin, Tennessee, and Colorado. This research urges

future efforts at understanding and addressing voter ID challenges to create a broad coalition of organizations, work with government agencies, identify affected voters through community outreach strategies, address transportation issues, and find sources that can help voters offset costs.<sup>108</sup> Wang concludes that “one approach to identifying voters in need is to widely publicize the efforts of the NGOs that are helping voters obtain photo ID,”<sup>109</sup> a line of thinking that we build upon in this book.

Momentum for this type of effort is already underway, with nonprofits such as Spread the Vote, a 501(c)(3) organization created in 2017, pairing volunteers with those in need of IDs in states such as Virginia, Georgia, Tennessee, Florida, and Texas—especially people who are homeless, poor, or recently released from prison. Spread the Vote staff and volunteers go to food banks, churches, and housing projects in search of would-be voters.<sup>110</sup> To get a flavor for how this assistance works, it’s worth highlighting one of the nonprofit’s success stories:

Leon Thomas is a 26-year veteran of the US Air Force. Four years ago, a stroke left him paralyzed on his left side. He currently resides with 3 other veterans under the supervision of the Department of Veterans Affairs (VA) with 24-hour care. Mr. Thomas’ driver’s license expired 1 year ago. He had already renewed online for his previous driver’s license, so he was required to visit his local tax collector to receive his state ID. He bore the burden of getting to the tax collector, since public transportation for an individual in a wheelchair is only available for medical appointments. The cost for securing transportation to the tax collector 5.5 miles from his residence was \$110.00 round trip. He also needed a private nurse who knew how to address his needs while out. Spread The Vote covered the cost of both the transportation and the private nurse. Mr. Thomas was ready to get a van from the VA. But in order to receive, register, and insure his van, he needed a state ID and his family members do not have vehicles that can accommodate his wheelchair, which meant it was unfeasible/unaffordable for him to leave the house for social visits, to attend church, and the like. We’re proud to say that is no longer the case. IDs change lives.<sup>111</sup>

This example of what it took to assist one individual with documentation requirements shows in microcosm both the problems and the

opportunities for helping citizens in need of ID. But the costs and effort to help this one individual need to be scaled to millions of others, requiring major commitments in funding and other resources.

Many current efforts are helping eligible voters get what they need to vote. To this point, however, research has largely conceived of this problem in terms of legal and policy challenges, rather than focusing on the resources needed to reach a much larger population and open up the franchise to everyone who is entitled to exercise it.

In this book, we concentrate less on the legal and policy challenges in which many organizations are already engaged.<sup>112</sup> Instead, we focus on citizens' experiences in navigating voter documentation requirements, from broad and deep perspectives. As anecdotes about these requirements attest, geography, psychology, sociology, culture, and the complexities of communication all play roles in these matters. Integrating our findings with insights from relevant disciplines, we address how best to motivate and *help* people get the documentation they need.<sup>113</sup> At the same time, we use these findings to build toward a national call and a road map for change. While we certainly call on policymakers to create sweeping changes in the US voting system, we construct realistic ways for nonprofits and other community institutions to address voter documentation requirements on the ground, as a means to build greater trust and legitimacy with clients, to broaden their audiences and partnerships for funding, and signal their commitment to civic engagement and overall missions of serving the public interest. In the next chapter, we turn to how we mapped voter identification challenges nationally, in pursuit of any and all ways forward on this election-defining issue.