

EXECUTIVE SUMMARY FOR THE REPORT:

# Voting Rights Barriers & Discrimination in Twenty-First Century California: 2000-2013

March 2014

## ABOUT LCCR

Lawyers' Committee for Civil Rights of the San Francisco Bay Area, founded in 1968, works to advance, protect and promote the legal rights of communities of color, low-income persons, immigrants, and refugees. Assisted by hundreds of pro bono attorneys, LCCR provides free legal assistance and representation to individuals on civil legal matters through direct services, impact litigation and policy advocacy.

## ABOUT LCCR's VOTING RIGHTS WORK

LCCR's voting rights work seeks to remedy twenty-first century voting rights violations in jurisdictions throughout California. LCCR assists voters, community members, and community-based organizations with impact litigation to protect and advance equal voting rights for communities that have historically been disenfranchised. We work with communities to help identify community-based solutions in compliance with voting rights protections for greater transparency, participation, accountability, and diversity in municipal governance. LCCR collaborates with civil rights legal organizations, community organizations, law schools and the private bar to provide legal and community education regarding voting rights protections. We also work in collaboration with the Lawyers' Committee for Civil Rights Under Law in Washington, D.C., and the National Election Protection Coalition during elections, training attorneys and other mobile legal volunteers to ensure that no eligible voter is turned away from the polls.

## ACKNOWLEDGEMENTS

This report was written by **Rachel Evans, Georgetown Law Fellow**, and **Joanna E. Cuevas Ingram, Equal Justice Works Voting Rights Fellow**, of the Lawyers' Committee for Civil Rights of the San Francisco Bay Area (LCCR). The authors would like to thank LCCR Executive Director, Kimberly Thomas Rapp, and Legal Director, Oren Sellstrom, for their review and feedback in the development of this report.

Published: March 2014

## INTRODUCTION

Over the past 50 years, the United States Congress has passed groundbreaking laws aimed at ending discrimination in elections and ensuring that every citizen has equal opportunity to vote. The Voting Rights Act of 1965 (VRA),<sup>1</sup> one of the most important of these laws, is often referred to as the “crown jewel” of U.S. civil rights protections.<sup>2</sup>

The VRA prohibits any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.”<sup>3</sup> Section 2 of the VRA bans such practices nationwide. Section 5 of the VRA requires certain states and jurisdictions that have had a history of voting rights violations to obtain approval from the United States Department of Justice (DOJ) or a federal court—a.k.a. “preclearance”—before implementing any new election law or policy. Preclearance is intended to prevent discriminatory laws from ever going into effect; in other words, preclearance stops discrimination *before* it can happen.

***“While any discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions.”***

– *Shelby County, Alabama v. Holder*, 570 U.S. \_\_\_, 133 S.Ct. 2612, 2619 (2013).

In 2013, the U.S. Supreme Court struck down a major provision in the VRA, significantly eroding the federal protections against election discrimination. In *Shelby County v. Holder*,<sup>4</sup> the Court struck down the coverage formula under section 4 of the VRA, in effect nullifying section 5. The coverage formula under section 4 of the VRA determined which jurisdictions were “covered” and otherwise subject to the provisions of section 5.<sup>5</sup> The Court held that the coverage formula was out of date and was not based on “current burdens and justified by current needs.”<sup>6</sup> The Court left open the possibility for Congress to develop a new coverage formula to replace section 4; however, the Court held that “while any discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions.”<sup>7</sup>

Since *Shelby County*, jurisdictions with long histories of voting rights violations, including three counties in California, are no longer subject to section 5 preclearance provisions. Without the preclearance formula, an election law or practice, more often than not, will likely only be challenged under the VRA *after* a person or group of people have suffered discrimination.<sup>8</sup>

On January 16, 2014, U.S. Congressional Representatives James Sensenbrenner (R-WI), John Conyers (D-MI) and Senator Patrick Leahy (D-VT) introduced the Voting Rights Amendment Act of 2014 (VRAA),<sup>9</sup> which seeks to amend the VRA and respond to the *Shelby* Court’s call for voting rights legislation that reflects “current needs” and “current conditions.”<sup>10</sup> The VRAA proposes a new section 4 coverage

formula, which would bring states and local jurisdictions within section 5 preclearance if they have violated federal voting rights law over the past 15 years.<sup>11</sup>

This report and its accompanying database serve as a response to both the Supreme Court and Congressional calls for evidence of current burdens suffered by California voters. Although a web of federal and state laws are in place in California, the evidence compiled in this report demonstrates that these laws have been insufficient to alleviate the statewide burden of discrimination in voting. Structural vote dilution and discrimination continues to plague California. These voting rights violations are just as real today as they were in 1965; these harms continue to impact protected classes and underrepresented communities statewide. As this study documents, even in the twenty-first century, California voters are being deprived of their constitutional right to the one-person, one-vote guarantee; are disenfranchised; face intimidation and deception at the polls; and many Californians remain unable to vote or to do so secretly.

## RESEARCH PROJECT & DESIGN

This research project takes an in-depth look at the problem of voting discrimination in California over the past 13 years. First, this study reviewed litigation under all voting rights laws applicable to the state. A more comprehensive study of litigation includes not just the VRA, but its state counterpart, the California Voting Rights Act (CVRA), as well as other voting rights laws. In conducting this review, this study examined both cases that reached the merits of the decision in court, as well as those that settled. In addition, because not every instance of discrimination is litigated through the courts, this study looked at reports from non-governmental organizations (NGOs) that address recent discrimination in elections both nationally and in California, as well as reports of calls that came in to a nonpartisan national voting hotline by voters, legal monitors, poll watchers and poll workers on election day.<sup>12</sup>

The ultimate product is an interactive, searchable database of California, Ninth Circuit and Supreme Court voting rights cases; NGO reports; and reports of individuals of instances of voting problems on Election Day. The data spans 2000-2013.

*To download the  
2014 LCCR Voting  
Rights Project  
Database  
visit [www.lccr.com](http://www.lccr.com).*

This data was considered collectively in order to derive a more nuanced understanding of the character and extent of discrimination faced by California voters in the twenty-first century. The Report that follows discusses these research findings in-depth. Together, the cases, reports, and individual testimonies reveal a fuller picture of the current burdens California voters continue to face in exercising the fundamental right to vote. The summary that follows

discusses the initial research findings, illustrating the broader trends that emerged from the research database and what these trends may mean for California.

## THE FINDINGS: DOCUMENTING VOTING DISCRIMINATION IN CALIFORNIA

Our study showed that, to this day, California voters are subject to significant voting rights barriers and violations. Although poll taxes, literacy tests and other Jim Crow-era policies have long been abolished, discriminatory policies and practices continue to plague our state and burden California voters from racial, ethnic and language minority groups, as well as voters with disabilities. The study found that five categories of voting rights violations predominate in California: (1) vote dilution, (2) systemic *de jure* and *de facto* disenfranchisement of currently and formerly-incarcerated Californians, (3) voter suppression, (4) language access barriers and (5) disability access barriers.

### *Vote Dilution*

The Constitutional principle of “one-person, one-vote”<sup>13</sup> guarantees that each person has the right to have his or her vote counted equally. That is, every citizen has the right to an undiluted vote. Where racially polarized voting exists, and a method of election deprives a minority group of equal opportunity to elect their candidate of choice, the voting strength of that minority group has been diluted. In other words, vote dilution occurs when a minority group has been deprived of the ability to meaningfully participate or influence their own municipal governance through the electoral process.

In California, two main laws protect against vote dilution: The federal Voting Rights Act (VRA) and the California Voting Rights Act (CVRA). The federal VRA prohibits both at-large and single-member district systems, as well as any other method or procedure of elections, that render a protected group unable to effectively participate in the political process or elect representatives of its choice.<sup>14</sup>

The California Voting Rights Act (CVRA), which is stronger than the federal VRA and has therefore been more heavily utilized, provides a private right of action to members of a protected racial, ethnic or language minority group where their votes are diluted or rights are abridged due to a jurisdiction’s use of the at-large method of election in a racially polarized electorate,<sup>15</sup> and the federal Voting Rights Act (VRA) prohibits both at-large and single-member district systems, as well as any other method or procedure of elections that render a protected group unable to effectively participate in the political process or elect representatives of its choice.

California is an increasingly diverse, “minority-majority” state.<sup>16</sup> In 2012, non-whites comprised 61 percent of California’s population.<sup>17</sup> Nearly 40 percent of California’s population is now Hispanic or Latino.<sup>18</sup> Yet, in many counties, cities,

school districts and political subdivisions, Latino Californians have rarely or never been elected to office. For example, even though Latinos comprise 65.7 percent of the city's population, no Latino has ever been elected to the Whittier City Council in the city's 115-year history.<sup>19</sup> In Palmdale, Latinos comprise approximately 60 percent of the population and African-Americans comprised 15 percent, yet only one Latino and one African-American had been elected to the city council since the 1970s.<sup>20</sup> Each of these cities maintained at-large election systems prior to a CVRA lawsuit.

The CVRA has had the effect of transitioning dozens of at-large election systems to district-based election systems over the last decade. Since 2003, out of the twenty-one cases filed under the CVRA, sixteen have been successfully settled by the plaintiffs or successful on the merits, and in no instance has a case been decided in favor of a defendant jurisdiction.<sup>21</sup> The successful trajectory of the CVRA has thus

***Although poll taxes and literacy tests have long been abolished, discriminatory polices and practices continue to burden California voters of racial, ethnic, and language minority groups, as well as voters with disabilities.***

led to a trend where jurisdictions are increasingly settling with plaintiffs and increasingly changing voluntarily as soon as they realize they may be vulnerable to a potential suit.<sup>22</sup> For example, in the face of a CVRA lawsuit,<sup>23</sup> Whittier and Anaheim are holding special elections in June 2014 and November 2014, respectively, to determine whether to establish district-based city council elections.<sup>24</sup>

The City of Woodland is also placing the question on the ballot in June 2014 due to community pressure.<sup>25</sup> In Visalia, California in early February 2014, a Tulare County judge approved a CVRA settlement between Latino plaintiffs and the city calling for district based elections in November 2016.<sup>26</sup>

A majority of CVRA lawsuits settle, and even more jurisdictions have opted to voluntarily change their method of election. The trend away from potentially dilutive at-large elections has resulted in the restructuring of local elections systems designed to facilitate the opportunity for diverse, historically underrepresented Californians, and Latino

Californians in particular, to share an equal vote and voice with some meaningful influence in local government elections. However, it is too early to know whether the transition away from at-large systems has resulted in the ability of these historically marginalized groups to elect the candidates of their choice.

Although a number of jurisdictions have made the decision to change from at-large election systems, this change does not signify the end of vote dilution in California. A number of at-large jurisdictions still exist, and it remains unclear whether these same jurisdictions continue to dilute the votes of protected communities in the new district-based election systems many jurisdictions adopt to replace the old at-large systems. The trend away from at-large elections, however, indicates that vote

dilution remains a widespread problem throughout California; the CVRA has only begun to address the issue.

### *De Jure and De Facto Disenfranchisement*

Disenfranchisement occurs when otherwise eligible voters are prohibited from voting. Eligible voters can be disenfranchised by the force of law. One common form of legal disenfranchisement are “felony disenfranchisement” laws.<sup>27</sup> In addition, eligible voters can be disenfranchised because they are deceived, receive incorrect information, or for some other reason believe that they are not eligible to vote. This phenomenon is called *de facto* disenfranchisement.

Both felony disenfranchisement and *de facto* disenfranchisement have devastating, long-term effects across historically disenfranchised communities—communities of color in particular. The ability to cast votes for representative officials and on laws and policies that affect one’s community is a fundamental right, and an important component to democratic participation and civic engagement.

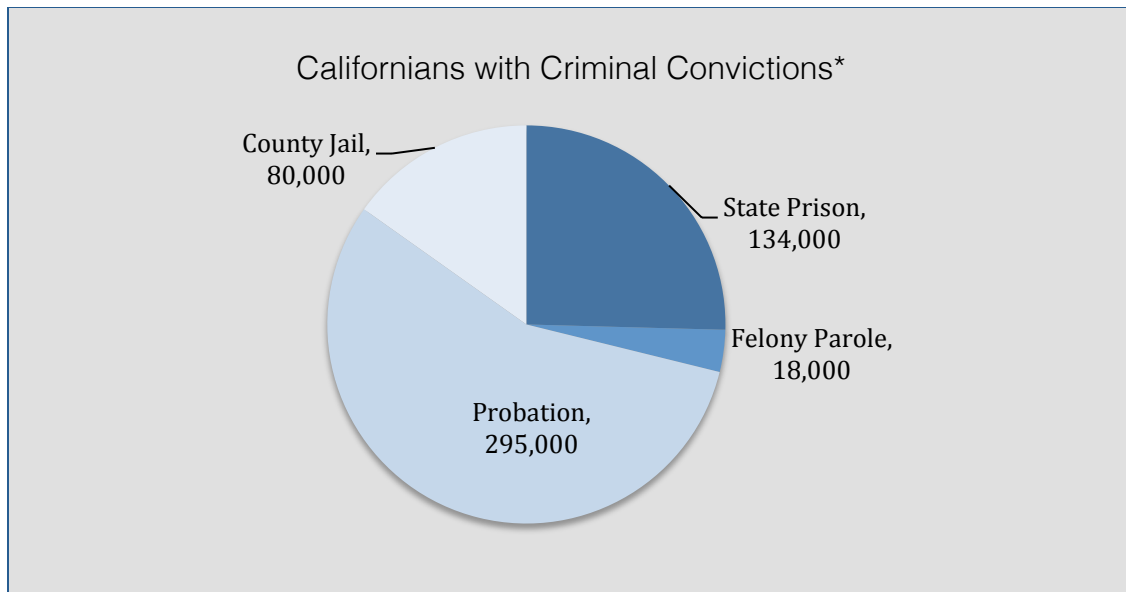
When one-in-thirteen African Americans are legally barred from voting<sup>28</sup> and denied an equal voice in their governance based on felony disenfranchisement and *de facto* disenfranchisement, there is a legitimate concern that African American communities have less opportunity to participate in or influence the outcome of elections. The *de facto* disenfranchisement of countless others significantly dilutes the voting strength of the communities in which many of these otherwise eligible voters remain citizens.

Both *de jure* felony disenfranchisement and *de facto* disenfranchisement have devastating, long-term effects across communities—communities of color in particular. As a result, the voices, concerns and preferences of otherwise protected groups and communities are stifled by their members’ inability to participate equally in the political process as citizens. Where confusion and misinformation remain pervasive, these citizens’ communities will have an unequal “say in matters that impact the quality of their lives, such as how their taxes are spent or education issues that affect their children.”<sup>29</sup>

### DE JURE DISENFRANCHISEMENT

*De jure* “felony disenfranchisement” laws prevent an astounding 5.8 million Americans from voting because of a felony conviction.<sup>30</sup> In the United States, one out of every thirteen voting aged African Americans is disenfranchised; in some states, that number increases to more than one-in-five.<sup>31</sup> In California, citizens are disenfranchised if they are currently serving a felony sentence in state prison or are on felony parole. That means that the more than 134,000 Californians housed in state prisons,<sup>32</sup> and more than 18,000 on felony parole,<sup>33</sup> are barred from exercising their right to vote.





\*Source: California Department of Corrections & Rehabilitation; California Department of Justice<sup>34</sup>

## DE FACTO DISENFRANCHISEMENT

*De facto* disenfranchisement occurs when otherwise eligible voters barred from voting due to misinformation, confusion, deception, or lack of access to voting or voter registration. *De facto* disenfranchisement likely prohibits numerous eligible voters from going to the polls. The risk of *de facto* disenfranchisement is especially high for individuals with a criminal conviction, who face structural and informational barriers that are not faced by the general public.<sup>35</sup> More than 350,000 Californians were on probation or incarcerated in county jail in 2012.<sup>36</sup>

In California, all persons on probation or incarcerated for misdemeanor convictions are eligible to vote; only persons in prison or on parole for a felony conviction are disqualified from voting.<sup>37</sup> An estimated 295,000 Californians on probation, and 81,000 incarcerated in county jails, were therefore otherwise eligible to vote in 2012.<sup>38</sup>

However, Californians with criminal convictions face systemic procedural barriers that the general voting public does not, which can lead to the *de facto* disenfranchisement of numerous California citizens. Between 2005 and 2008, the ACLU of Northern California (ACLU-NC) conducted a statewide survey to determine the awareness of state and local officials about the voting rights of individuals with criminal convictions.<sup>39</sup> This survey made the troubling finding that a majority of California's sheriffs' departments, probation offices, and local election officials provided incorrect or no information when asked about the voting rights of Californians with criminal convictions.<sup>40</sup> In addition, the ACLU-NC observed instances where Spanish translators incorrectly translated information from these offices regarding voting eligibility.



***“It is common knowledge that the system is absolutely broken when it comes to the voting rights of incarcerated and formerly incarcerated people in California.”***

– Dorsey Nunn, Executive Director of Legal Services for Prisoners with Children, co-founder of All of Us or None

Second, individuals with criminal convictions also face numerous procedural hurdles to voter registration. *De facto* disenfranchisement due to lack of access to voting registration and voting materials is a particular threat to eligible voters who are incarcerated. California county jails and correctional facilities house a large population of eligible voters; yet, it is often difficult for these citizens to register to vote.<sup>41</sup>

Often in California, the only means to register is for incarcerated individuals to affirmatively request a mail-in absentee voter registration application through their correctional facility and local elections office,<sup>42</sup> and many of these California citizens often do not receive assistance filling out the registration form.<sup>43</sup>

County jail conditions and services vary across the state, and it is unclear whether Californians on probation or county jail are aware of their voting rights.<sup>44</sup> Mail-in absentee registration cards may or may not be counted,<sup>45</sup> even after

otherwise eligible California voters in county jail fill them out if they are not sent in within 30 days before an election, and even then, the registrar may over-purge the list of those who have a felony conviction, even where a person may be serving a probation sentence, and is neither in prison nor on parole.<sup>46</sup>

The difficulty of obtaining voter registration materials in California has led to the *de facto* disenfranchisement of currently and formerly incarcerated individuals,<sup>47</sup> a disproportionate number of whom are also people of color.<sup>48</sup> The families and communities that support these Californians are the unseen victims of *de facto* disenfranchisement.

Adding yet another barrier, in December 2011, California Secretary of State (SOS) Debra Bowen issued a directive in a memorandum, asserting that individuals who have been convicted of certain low-level felonies and have been sentenced to community supervision under the Public Safety Realignment Act of 2011 are ineligible to vote under California’s felony disenfranchisement scheme.<sup>49</sup>

In February 2014, The Lawyers’ Committee for Civil Rights of the San Francisco Bay Area (LCCR), the ACLU of Northern California, and Legal Services for Prisoners with Children filed suit in *Scott v. Bowen* on behalf of three Californians, two state taxpayers, All of Us or None and the League of Women Voters California, charging the Secretary of State with unconstitutionally and unlawfully disenfranchising nearly 60,000 California citizens in the directive issued by her 2011 memorandum.<sup>50</sup> The case is currently pending.

The ability to cast votes for representative officials and on laws and policies that affect one’s community is a fundamental right, and an important component to

democratic participation and civic engagement. While confusion around voting rights remains pervasive, what remains clear is that both *de jure* felony disenfranchisement and *de facto* disenfranchisement continue to have devastating, long-term effects across historically disenfranchised communities in California—communities of color in particular.

### Vote Suppression

Historically, people of color have been disproportionately disenfranchised by laws and practices that remove their voices from the political process.<sup>51</sup> Vote suppression “seeks to decrease the number of eligible voters and, generally, take the electoral power away from individuals or groups.”<sup>52</sup> In the Jim Crow era, poll taxes and literacy tests created widespread, government-sanctioned disenfranchisement of people of color. In addition, violence and threats intimidated eligible voters and kept them away from the polls. “[V]oter suppression tactics today are often less violent and less overt, but minority communities are still targeted.”<sup>53</sup> California is no exception. Vote suppression can be divided into two categories of practices, which often overlap: voter intimidation and voter deception.

#### VOTER INTIMIDATION

Voter *intimidation* involves a wide range of conduct, including the use of threats, such as violence, incarceration, or other force to intimidate a person in a manner that coerces voter behavior. Specifically, voter intimidation may seek to force a person to vote a certain way, or dissuade a person from voting altogether.<sup>54</sup>

Voter intimidation comes from a variety of sources, including poll workers, law enforcement and third parties. This Study found that, from 2000-2013, California voters experienced harassment and intimidation from each of these sources.

Although this study identified reports of voter intimidation statewide, reports of voter intimidation in Latino communities appear particularly prevalent.

Although reports of voter intimidation from voters and poll observers found incidents of voter intimidation statewide, a number of reports involved intimidation of voters among precincts located in predominantly Latino communities across the state.

For example, in 2006, a Los Angeles voter observed a poll worker questioning an elderly man about who he was going to vote for, telling the voter that he “might as well leave.”<sup>55</sup> In 2012, a San Diego County poll worker called a Latino voter a “wetback,”<sup>56</sup> and in San Bernardino County, a polling place supervisor said that he did not want poll observers who did not speak English at the polling station, and “he had a shotgun” if anybody wanted to do anything about it.<sup>57</sup> In

***In 2012, a San Bernardino polling place supervisor said that he did not want poll observers who did not speak English at the polling station, and “he had a shotgun” if anybody wanted to do anything about it.***

2006, a deputy sheriff positioned himself in a San Francisco polling place, and when asked about his presence there, he claimed he was there to “protect the voters.”<sup>58</sup>

In Redlands in 2012, third-party poll observers were reportedly telling the polling place supervisor that several African-American voters should not be allowed to vote.<sup>59</sup> In Orange County in 2012, “Election Integrity Project” observers, members of a third-party group funded by the same organizations pushing for restrictive voter identification laws and other voter suppression tactics, “positioned themselves right over voters and watched how the voters were marking their ballots, creating an intimidating atmosphere.”<sup>60</sup>

## VOTER DECEPTION

Voter *deception* seeks to suppress or manipulate the votes of “unwanted minority, elderly, disabled, and language-minority voters” through the dissemination of misleading information, or the withholding of information, with the intent or effect of distorting, misleading, deceiving, or confusing voters.<sup>61</sup>

Voter deception continues to plague California voters in a number of ways, and appears to have a disparate impact on Latino and language minority voters. Since 2000, deceptive practices have increasingly benefitted from confusion regarding voter identification requirements. From 2006-2008, the California Election Protection Coalition, a coalition of civil rights organizations in California organized by the Washington, DC-based Lawyers’ Committee for Civil Rights Under Law, LCCR, Public Counsel and others, received a significant number of reports from voters and poll observers across the state that poll workers were falsely requiring voters to present identification in order to vote, in ways that were contrary to California law.<sup>62</sup> One poll worker reportedly stated “that he was checking ID contrary to California law because he wanted to be sure no ‘foreign nationals’ voted.”<sup>63</sup>

Voters in California also received phone calls and mailings containing misleading information. In 2012, two-dozen Spanish-speaking voters in Los Angeles received Spanish-language robo-calls and mailers “instructing them to vote on the day *after* Election Day.”<sup>64</sup>

Vote suppression is an ongoing problem throughout California. Intimidating tactics and deceptive practices can rob targeted voters of the ability to accurately express their electoral preferences, and may even prevent some from voting at all. Without greater protections under law and consistent enforcement of existing protections, perpetrators of voter suppression will continue to use deceptive practices to unlawfully influence the outcome of elections.

## *Barriers to Language Accessibility*

More than 43 percent of Californians, and over 2.6 million eligible California voters, speak a language other than English at home.<sup>65</sup> From 2000 to 2013, the number of Latino voters in California nearly doubled, and the number of Asian voters increased by two-thirds, while the white voting population fell 13.5 percentage points.<sup>66</sup> Many Latino and Asian voters in California also speak languages other than English at home. In California, more than one-third of households in major metropolitan areas speak a language other than English at home.<sup>67</sup> Lack of access to assistance and materials in one's language effectively prevents a California voter from meaningful participation in the electoral franchise.

Twenty-five California counties are required to provide bilingual voting materials under sections 203 and 208 of the federal Voting Rights Act. In California, local public agencies are required to provide bilingual assistance and materials.<sup>68</sup> In addition, the California Secretary of State provides election-related materials and voter hotline assistance in English, Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai, and Vietnamese.<sup>69</sup> Thus, in theory, language assistance should be widely available to LEP voters. However, between 2000-2013, our study found that these Californian voters continued to face adversity on Election Day, as cities and counties failed to fulfill their obligations under both state and federal law.

***From early 2004 through 2011, the U.S. Department of Justice identified nine California jurisdictions in violation of their obligations under section 203 of the federal Voting Rights Act.***

From early 2004 through 2011, the U.S. Department of Justice (DOJ) identified nine California jurisdictions that were violating section 203 of the federal Voting Rights Act.<sup>70</sup> These findings resulted in seven federal court consent decrees, one stipulated federal court order and two memorandums of agreement between the DOJ and the local jurisdiction to address continued violations.<sup>71</sup>

A number of language access issues were also reported on Election Day in 2010 and 2012. One Panorama City polling place did not have any bilingual poll workers, and “the headset intended by the county to provide Spanish translation ... was not functional.”<sup>72</sup> Reports from San Francisco and Sacramento Counties indicated that poll workers illegally prevented voters from bringing a language assistant of their choice into the voting booth.<sup>73</sup> Incidents of rudeness and disdain towards voters that needed language

assistance were observed in Los Angeles, Orange, Santa Clara and San Mateo counties.<sup>74</sup> Polling places in Los Angeles and San Mateo counties ran out of multi-lingual ballots and voting materials.<sup>75</sup>

As the evidence compiled in this report demonstrates, these problems, among others faced by limited-English speaking voters in California, are significant and far-reaching. California cities and counties are failing to fulfill their legal obligation to ensure that all citizens, no matter their English-language status, have equal access to

the electoral franchise. The lack of proper language assistance can significantly impact the ability of language-minority populations to elect their representatives of choice and to have an equal say in the governance of their communities. As seen from the examples above, these laws alone do not adequately safeguard the voting rights of the populations they seek to protect.

### *Barriers to Disability Accessibility*

Persons with disabilities face significant physical and systemic procedural barriers to voting. Physically, if a polling place is not accessible or if disability-accessible voting machines and ballots are not available, a disabled voter is unable to exercise the right to vote. Further, as a procedural matter, if voters are not informed of the available voting accommodations or if poorly trained poll workers deny a disabled voter the access to the accommodations to which they are entitled, then the disabled voter is unable to fully engage in the electoral process.

Every citizen has the right to a secret vote in an accessible place. An extensive set of federal laws set forth standards to ensure that the right to vote is not contingent on one's disability status, including the federal Voting Rights Act, the Help America Vote Act, the Voting Accessibility for the Elderly and Handicapped Act, the Americans with Disabilities Act, the National Voter Registration Act, and the California Accessible Voting Technology Act.

Despite these legal and procedural protections, our study revealed that California voters with disabilities continued to face discrimination between 2000-2013. A number of voters reported issues with disability-accessible voting machines and procedures not functioning. For example, because the only disability-accessible voting booth was broken in one Orange County polling station, disabled voters had to vote out in the open. Poll observers were taking notes as a nurse assisted a number of these disabled voters.<sup>76</sup> A blind voter in Contra Costa County had to return to her home to retrieve her own headphones in order to vote in 2012, because the audio voting machine did not have its own headphones.<sup>77</sup>

Despite the extensive protections enshrined in federal and state law, voters with disabilities in California continue to face these and other barriers at the polls. Greater protections are necessary to ensure that the policies and procedures put in place to assist disabled and elderly voters *actually* assist these voters. The existence of accessible voting equipment at polling places is inadequate if the equipment is not functional; the legal right to assistance at the polls is not truly a right if poll workers are not aware of the right to assistance by a person of choice selected by the voter. If any component of voting is inaccessible, disabled individuals lose access to a meaningful vote, because they are not able to vote in secret in ways that non-disabled voters are guaranteed. Disabled voters are an extremely diverse population with a wide variety of priorities and opinions. More must be done to guarantee disabled Californians full and meaningful participation in the electoral process.

## CHALLENGES, LIMITATIONS & WHY WE NEED REFORM

Given the breadth and depth of voting rights barriers and violations, as well as the increasingly complex structural and systemic forms of voting discrimination found in this study at local and state levels, it is apparent that much work remains to be done, both legislatively and administratively, to address these continued harms today. Civil rights advocates and communities experiencing vote dilution, voting discrimination, disenfranchisement, intimidation and suppression must remain vigilant and continue to advocate together in coalition for stronger protections and reform under federal and state law.

### *Federal Reform*

As noted *supra*, Part I, the proposed Voting Rights Amendment Act of 2014 (VRAA) would help fill the gap that currently exists in the VRA by instituting a new rolling coverage formula designed to address current burdens. Clearly, Congressional action to respond to the Supreme Court's *Shelby County* decision is essential.

The VRAA could and should be strengthened, however, in a number of ways, and other federal reforms are equally necessary:

1. **Adopt a “known practices” coverage formula in the proposed federal Voting Rights Amendment Act of 2014 (VRAA), to bring California within federal protection and oversight before common discriminatory election practices cause any further harm to California voters.**
2. **Pass the provisions of the Voting Rights Amendments Act (VRAA) that require notice and disclosure before, as well as federal monitoring after, any changes are made to election procedures and systems.**
3. **Address the racial impacts of felony disenfranchisement laws by re-introducing and enacting the Democracy Restoration Act, and by introducing a constitutional amendment establishing an affirmative right to vote for all U.S. citizens.**

### *State Reform*

At the state level, several actions should be taken to address voter discrimination and the voting barriers identified in this report. We make the following recommendations to California state elections officials, government officials and legislators:



1. **Strengthen the California Voting Rights Act (CVRA) to address racial polarization and vote dilution of communities of color in single-member district-based election systems, and provide clearer, prescriptive remedies for violations.**
2. **Ensure and protect the right to vote among 350,000 current and formerly incarcerated Californians. Designate California probation departments and county jails as voter registration agencies under the National Voter Registration Act (NVRA).**
3. **Update the online registration and voter information system to find ways to identify eligible voters who are not registered and affirmatively ensure that they have the opportunity to register to vote, in compliance with the NVRA and the Help America Vote Act (HAVA).**
4. **Adopt clear statewide standards for voter registration and poll worker training, auditing and evaluation.**
5. **Strengthen and expand state and federal language and disability access voting rights laws. Make the statewide initiative petition, title and summary process, which is currently English-only, fair and accessible to over 2.6 million eligible California voters who speak languages other than English.**

## CONCLUSION

Even into the twenty-first century, California voters continue to face significant barriers to exercising the right to vote. Vote dilution, voting discrimination, *de facto* disenfranchisement, and ongoing barriers to language access and disability access continue to plague California voters well into the twenty-first century. Despite a web of federal and state laws that have been enacted over the past half-century to protect the fundamental right to vote, voters in California confront discrimination and barriers to voting.

More can and must be done. All of us have a role in protecting this fundamental right. Federal and state legislators, executive administrators and local jurisdictions must take action to become more accountable and transparent to the entire diversity of the electorate. Civil rights advocates and communities must remain vigilant and continue to advocate together in coalition for stronger protections and reform under state and federal law. State officials must also work together with underrepresented communities, civic engagement organizations and civil rights advocates to ensure that the fundamental right to vote remains protected for future generations of Californians.



## ENDNOTES

<sup>1</sup> 42 U.S.C. § 1973 (West 2013).

<sup>2</sup> See Assistant Democratic House Leader and Congressman James E Clyburn (D-SC), Clyburn Statement on Introduction of the Voting Rights Amendment Act of 2014, Jan. 17, 2014, *available at* <http://clyburn.house.gov/press-release/clyburn-statement-introduction-voting-rights-amendment-act-2014> (“Upon signing the 1982 reauthorization of the Voting Rights Act, President Reagan called the right to vote ‘the crown jewel of American liberties’ and pledged that ‘no barrier will come between our citizens and the voting booth.’ The Voting Rights Amendment Act of 2014 is an important step toward renewing our commitment to President Reagan’s pledge in the wake of the Supreme Court’s decision last year in *Shelby County v. Holder*.”).

<sup>3</sup> 42 U.S.C. § 1973(a).

<sup>4</sup> *Shelby County, Alabama v. Holder*, 570 U.S. \_\_\_, 133 S.Ct. 2612 (2013).

<sup>5</sup> Section 3 of the VRA also allows courts to “bail” certain jurisdictions into section 5 preclearance if the plaintiffs or the DOJ can prove that the jurisdiction intentionally engaged in discriminatory voting practices or procedures. § 1973a(c).

<sup>6</sup> *Shelby County, Alabama v. Holder*, 570 U.S. \_\_ at \_\_; 133 S.Ct. at 2619 (quoting *Northwest Austin Municipal Utility District v. Holder*, 557 U.S. 193, 203 (2009)).

<sup>7</sup> *Id.*

<sup>8</sup> See J. Gerald Hebert & Armand Defner, *More Observations on Shelby County, Alabama and the Supreme Court*, CAMPAIGN LEGAL CENTER BLOG, Mar. 1, 2013, 18:01, [http://www.clcblog.org/index.php?option=com\\_content&view=article&id=506:more-observations-on-shelby-county-alabama-and-the-supreme-court-](http://www.clcblog.org/index.php?option=com_content&view=article&id=506:more-observations-on-shelby-county-alabama-and-the-supreme-court-) (estimating that plaintiffs have secured preliminary injunctions in only about five percent of Section 2 cases); see also Christopher S. Elmendorf & Douglas M. Spencer, *Administering Section 2 After Shelby County* (working draft, Feb. 9, 2014, forthcoming 2014) at 11.

<sup>9</sup> Voting Rights Amendment Act of 2014, H.R. 3899, S.B. 1945, 113th Cong., (2d Sess. 2014); see also Ari Berman, *Members of Congress Introduce a New Fix for the Voting Rights Act*, THE NATION, Jan. 16, 2014, *available at* <http://www.thenation.com/blog/177962/members-congress-introduce-new-fix-voting-rights-act>.

<sup>10</sup> *Shelby County, Ala. v. Holder*, 570 U.S. \_\_ at \_\_; 133 S.Ct. at 2619.

<sup>11</sup> H.R. 3899. Specifically, the VRAA (1) brings states within section 5 preclearance coverage if empirical data review of court decisions on the merits reveal five violations of federal voting rights law over a rolling 15 calendar year time period; and (2) brings local jurisdictions within section 5 preclearance coverage if they have committed three or more violations of federal voting rights law or have one violation and “persistent, extremely low minority turnout” over the latest 15-year period. *Id.*

<sup>12</sup> This project was based on the 2006 report by Ellen Katz, Margaret Aisenbrey, Anna Baldwin, Emma Cheuse & Anna Weisbrodt, *Documenting Discrimination in Voting: Judicial Findings Under Section 2 of the Voting Rights Act Since 1982*, 39 MICH. J. OF L. REFORM 643 (2006). This report database was designed to be structured much like the database for *Documenting Discrimination*. We would like to thank the authors of the report for inspiring this project.

<sup>13</sup> *Wesberry v. Sanders*, 376 U.S. 1 (1964); *Reynolds v. Sims*, 377 U.S. 533 (1964); *Baker v. Carr*, 369 U.S. 186 (1962).

<sup>14</sup> 42 U.S.C. § 1973(b).

<sup>15</sup> CAL. ELEC. CODE § 14027 (West 2013).

<sup>16</sup>See U.S. Dept. of State, Bureau of International Information Programs, *U.S. Minorities Will be the Majority by 2042, Census Bureau Says*, AMERICA.GOV, Aug. 15, 2008, available at <http://www.america.gov/st/peopleplace-english/2008/August/20080815140005xlrennef0.1078106.html>.

<sup>17</sup> State & County QuickFacts: California, U.S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/06000.html> (last visited Jan. 27, 2014).

<sup>18</sup>*Id.*

<sup>19</sup> Complaint at ¶¶ 5, 40, *Diego v. City of Whittier*, 2013 WL 4095785 (Los Angeles Co. Cal. Super. Aug. 5, 2013) (No. BC517363).

<sup>20</sup> Peter Fullam, *Palmdale voting rights ruling could foreshadow Whittier's fate*, WHITTIER DAILY NEWS, Dec. 3, 2013, <http://www.whittierdailynews.com/social-affairs/20131203/palmdale-voting-rights-ruling-could-foreshadow-whittiers-fate;>

<sup>21</sup>Four cases are still pending. See 2014 Lawyers' Committee for Civil Rights of the San Francisco Bay Area (LCCR) Voting Rights Project Database Master List available at <http://www.lccr.com> on March 17, 2014 (instructions to search and sort database are included in the master list). See also LCCR Spring 2014 Fact Sheet on The California Voting Rights Act (CVRA) (March 2014).

<sup>22</sup> See Jean Merl, *Voting Rights Act leading California cities to dump at-large elections*, L.A. TIMES, Sep. 14, 2013, <http://www.latimes.com/local/la-me-local-elections-20130915,0,295413.story>.

<sup>23</sup> Complaint, *Diego v. City of Whittier*, *supra* note 19; see also *Moreno v. City of Anaheim* (Orange Co. Cal. Super. June 28, 2012) (No. 30-2012-00579998-CU-CR-CXC) (settled, Jan. 7, 2014).

<sup>24</sup> *City of Whittier Reacts to Court Ruling*, City of Whittier, Dec. 13, 2013, <http://www.cityofwhittier.org/news/displaynews.asp?NewsID=636&TargetID=1>; Art Marroquin, *District Voting Measure to appear on Anaheim ballot*, O.C. REGISTER, Feb. 5, 2014, available at <http://www.ocregister.com>.

<sup>25</sup> Jim Smith, *Woodland City Council Agrees on New District Voting Map*, DAILY DEMOCRAT, Nov. 20, 2013, [http://www.dailydemocrat.com/news/ci\\_24561522/woodland-city-council-agrees-new-district-voting-map](http://www.dailydemocrat.com/news/ci_24561522/woodland-city-council-agrees-new-district-voting-map).

<sup>26</sup> *Medina et al., v. City of Visalia*, (Tulare Co. Cal. Sup. Ct., filed Dec. 19, 2013, settled Feb. 5, 2014) (No. 254528); Lewis Griswold, *Judge approves City Council district elections in Visalia to end lawsuit*, FRESNO BEE, Feb. 6, 2014, <http://www.fresnobee.com/2014/02/06/3753682/visalia-city-council-district.html>.

<sup>27</sup> JEAN CHUNG, FELONY DISENFRANCHISEMENT: A PRIMER 2 (The Sentencing Project, June 2013), available at [http://sentencingproject.org/doc/publications/fd\\_Felony%20Disenfranchisement%20Primer.pdf](http://sentencingproject.org/doc/publications/fd_Felony%20Disenfranchisement%20Primer.pdf).

<sup>28</sup> *Id.*

<sup>29</sup> MAYA HARRIS, MAKING EVERY VOTE COUNT: REFORMING FELONY DISENFRANCHISEMENT POLICIES AND PRACTICES IN CALIFORNIA 9 (ACLU 2008), [https://www.aclunc.org/sites/default/files/asset\\_upload\\_file228\\_7648.pdf](https://www.aclunc.org/sites/default/files/asset_upload_file228_7648.pdf).

<sup>30</sup> JEAN CHUNG, FELONY DISENFRANCHISEMENT: A PRIMER 1 (The Sentencing Project ed., 2013), available at [http://sentencingproject.org/doc/publications/fd\\_Felony%20Disenfranchisement%20Primer.pdf](http://sentencingproject.org/doc/publications/fd_Felony%20Disenfranchisement%20Primer.pdf).

<sup>31</sup> *Id.* at 2. In Florida, Kentucky and Virginia, more than 20 percent of African American adults are disenfranchised. *Id.*

<sup>32</sup> PRISON CENSUS DATA AS OF JUNE 30, 2013, CAL. DEP'T OF CORRECTIONS & REHAB. (2013), available at [http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/Annual/Census/CENSUSd1306.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/Census/CENSUSd1306.pdf).

<sup>33</sup> COUNTY AND REGION OF PAROLE: CALENDAR YEAR 2012, CAL. DEP'T OF CORRECTIONS & REHAB. (2012), available at [http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/Annual/MISC5/MISC5d2012.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/MISC5/MISC5d2012.pdf).

<sup>34</sup> CDCR, Estimates and Statistical Analysis Section, Weekly Report of Population as of January 22, 2014, [http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/WeeklyWed/TPOP1A/TPOP1Ad140122.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/WeeklyWed/TPOP1A/TPOP1Ad140122.pdf); KAMALA D. HARRIS, CRIME IN CALIFORNIA 2012, 54 (Cal. Dep't of Justice, 2012), *available at* <http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd12/cd12.pdf>; FACILITIES STANDARDS & OPERATIONS DIV., BD. OF STATE & COMMUNITY CORR., JAIL PROFILE SURVEY: FOURTH QUARTER CALENDAR YEAR 2 (2012), *available at* [http://www.bscc.ca.gov/download.php?f=/2012\\_4th\\_Qtr\\_JPS\\_full\\_report.pdf](http://www.bscc.ca.gov/download.php?f=/2012_4th_Qtr_JPS_full_report.pdf).

<sup>35</sup> *See generally*, ERIKA WOOD & RACHEL BLOOM, DE FACTO DISENFRANCHISEMENT (American Civil Liberties Union & The Brennan Center for Justice at New York University School of Law (Brennan Center for Justice) eds., October 2008), *available at* <http://www.brennancenter.org/publication/de-facto-disenfranchisement>.

<sup>36</sup> KAMALA D. HARRIS, CRIME IN CALIFORNIA 2012, 54 (Cal. Dep't of Justice, 2012), *available at* <http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd12/cd12.pdf>; FACILITIES STANDARDS & OPERATIONS DIV., BD. OF STATE & COMMUNITY CORR., JAIL PROFILE SURVEY: FOURTH QUARTER CALENDAR YEAR 2 (2012), *available at* [http://www.bscc.ca.gov/download.php?f=/2012\\_4th\\_Qtr\\_JPS\\_full\\_report.pdf](http://www.bscc.ca.gov/download.php?f=/2012_4th_Qtr_JPS_full_report.pdf).

<sup>37</sup> CAL. CONST. art. II, § 4,

<sup>38</sup> *See sources cited supra* note 35.

<sup>39</sup> HARRIS, *supra* note 29.

<sup>40</sup> *Id.* at 22-36.

<sup>41</sup> *See* Jennifer Rae Taylor, *Can't Vote because you're in jail? Yes, you can!*, SF BAY VIEW, Aug. 21, 2008, *available at* <http://sfbayview.com/2008/can%E2%80%99t-vote-because-you%E2%80%99re-in-jail-yes-you-can/>; HARRIS, *supra* note 29; *see generally* STEVEN KALOGERAS & MARC MAUER, *JAIL BASED VOTER REGISTRATION CAMPAIGNS* (The Sentencing Project ed., 2003), *available at* [http://www.sentencingproject.org/detail/advocacy\\_material.cfm?advocacy\\_material\\_id=6&id=](http://www.sentencingproject.org/detail/advocacy_material.cfm?advocacy_material_id=6&id=); *see, e.g., All of Us or None (AOUON) v. Sheriff Sniff* (Riverside Superior Court, filed Sept. 24, 2012) (No. RIC1214296) (action for writ of mandate to change the policy and practice regarding inmate voting and registration in Riverside County jails to enable deputy registrars to register voters in Riverside County Jail).

<sup>42</sup> HARRIS, *supra* note 29; *see sources cited supra* note 35; *see also, e.g.,* San Francisco City and County, "Inmate Voting: How to Register to Vote, Vote by Mail", <http://www.sfgov2.org/index.aspx?page=869>; Los Angeles County Registrar-Recorder/County Clerk, "Guide to Inmate Voting" (June 2009) *available at* [www.lavote.net/voter/pdfs/guide\\_inmate\\_voting.pdf](http://www.lavote.net/voter/pdfs/guide_inmate_voting.pdf)

<sup>43</sup> *See* Rae Taylor, *Can't Vote, supra* note 40 (noting Voting Rights for All Co-Chair Kathy Kahn's observations that 'Many individuals in jail have no reason to think they can vote and little chance of receiving accurate information if they ask,' and 'Until we can assure accurate information is available, we don't know how many inmates don't want to vote and how many are being incorrectly told they can't.');

<sup>44</sup> *See* Rae Taylor, *Can't Vote, supra* note 40 ("After years of disagreement and legal wrangling, authorities at every level still disagree about the voting rights of California's more than 82,000 jail inmates – most of whom are Black or Latino, and have not been convicted of any crime. Less than three months before one of the most historic elections in national history, California is still without a clearly established policy on jail inmate voting – and 'the law' seems to vary with who you ask."); *see also* HARRIS, *supra* note 29 and sources cited *supra* note 40; *see generally*, Jessie Allen, *Documentary Disenfranchisement*, 86 TUL. L. REV. 389 (2011) (reviewing systemic procedural barriers to voting for currently and formerly incarcerated individuals, canvassing other state policies).

<sup>45</sup> *See* HARRIS, *supra* note 29 at 40; *see also* Rae Taylor, *Can't Vote, supra* note 40; *see generally*, MYRNA PÉREZ, VOTER PURGES (Brennan Center for Justice ed., September 2008) *available at* <https://www.brennancenter.org/publication/voter-purges> (noting, that purging can be discriminatory and purging based on database matching can be unreliable); *see also id.* at 45, n. 180 (noting that

California's "Help America Voter Act" (HAVA)-Compliant "VoteCal" system was scheduled to be up and running by 2010; the link cited in VOTER PURGES at n. 180 could not be found on the California Secretary of State's website as of Mar. 2, 2014); LALEH ISPAHANI, PURGED! HOW A PATCHWORK OF FLAWED AND INCONSISTENT VOTING SYSTEMS COULD DEPRIVE MILLIONS OF AMERICANS OF THE RIGHT TO VOTE, "*California Purge Summary*" (American Civil Liberties Union, Right To Vote & Demos, eds., October 2004) at 16; see also CAL. ELEC. CODE § 2212 (requiring the clerk of the superior court to furnish to the elections official a statement with the names, addresses, and dates of birth of *all persons who were convicted of felonies* since the court's last report, even though the same statute requires county elections officials to cancel *only the affidavits of registration of those persons who are imprisoned or on parole for the conviction of a felony*) (emphasis added).

<sup>46</sup> See sources cited *supra* note 44.

<sup>47</sup> See Rae Taylor, *Can't Vote*, *supra* note 40; see also HARRIS, *supra* note 29; sources cited *supra* note 40. See, e.g., *AOUON v. Sheriff Sniff*, (Riverside Superior Court, filed Sept. 24, 2012) (No. RIC1214296); Los Angeles County Registrar-Recorder/County Clerk, "Guide to Inmate Voting", (June 2009) available at [www.lavote.net/voter/pdfs/guide\\_inmate\\_voting.pdf](http://www.lavote.net/voter/pdfs/guide_inmate_voting.pdf) ("Many inmates are not aware of the fact that they may be eligible to register and vote in California elections....Contrary to popular belief, persons who have been convicted of a felony in California may be eligible to register and vote after they have served their sentence and are no longer on parole."); see generally, WOOD & BLOOM, DE FACTO DISENFRANCHISEMENT, *supra* note 34.

<sup>48</sup> African Americans, Latinos and other nonwhite populations make up 76 percent of California's jail and prison population, yet they comprise only 56 percent of California's adult male population. See Ryken Grattet & Joseph Hayes, *California's Changing Prison Population* (Pub. Pol'y Inst. Of Cal., 2013), [http://www.ppic.org/main/publication\\_show.asp?i=702](http://www.ppic.org/main/publication_show.asp?i=702).

<sup>49</sup> Secretary of State CC/ROV Memorandum No. 11134 (issued Dec. 5, 2011). In 2011, California implemented the Public Safety Realignment Act, also known as the Criminal Justice Realignment Act, which sought to decrease criminal recidivism by creating alternative sentences for people convicted of some low-level felony offenses. Under Realignment, California has created two alternative, community-based forms of post-release county supervision: post-release community supervision and mandatory supervision. See *Scott v. Bowen*, RG14712570 (Alameda Super. Ct. filed Feb. 4, 2014).

<sup>50</sup> *Scott v. Bowen*, RG14712570 (Alameda Super. Ct. filed Feb. 4, 2014).

<sup>51</sup> H.R. REP. NO. 103-9, at 2-3 (1993); S. REP. NO. 103-6, at 3; see also *Shelby Cnty., Ala. v. Holder*, 133 S. Ct. 2612, 2624-25 (2013) (citing *South Carolina v. Katzenbach*, 383 U.S. 301, 308, 310 (1966)).

<sup>52</sup> Gilda R. Daniels, *Voter Deception*, 43 IND. L. REV. 2010, 359 (2010).

<sup>53</sup> *Id.* at 346-48.

<sup>54</sup> WENDY WEISER & VISHAL AGRAHARKAR, BALLOT SECURITY & VOTER SUPPRESSION: WHAT IT IS AND WHAT THE LAW SAYS 7 (Brennan Center for Justice ed., 2012), available at <http://www.brennancenter.org/publication/ballot-security-and-voter-suppression>; see 42 U.S.C. § 1971(b) (West 2013).

<sup>55</sup> ELECTION PROTECTION, REPORT ON THE LEGAL PROGRAM TO BOARD OF DIRECTORS AND TRUSTEES, STAFF, AND PRO BONO PARTNERS 18 (2007), available at <http://www.866ourvote.org/newsroom/publications/body/0083.pdf> [hereinafter ELECTION PROTECTION 2006].

<sup>56</sup> OurVoteLive.org, Report No. 65099, <http://www.ourvotelive.org> (follow "Search Reports" hyperlink; then follow "Enter it here" hyperlink); ELECTION PROTECTION, OUR BROKEN VOTING SYSTEM AND HOW TO REPAIR IT 58 (2013), available at <http://www.866ourvote.org/newsroom/publications> [hereinafter ELECTION PROTECTION 2012].

<sup>57</sup> Election Protection 2012, *supra* note 55, at 58.

<sup>58</sup> Election Protection 2006, *supra* note 54, at 19.

<sup>59</sup> OurVoteLive.org, *supra* note 55, at Report No. 64501.

<sup>60</sup> Election Protection 2012, *supra* note 54, at 53.

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<sup>61</sup> Daniels, *supra* note 51, at 348-49, 387.

<sup>62</sup> ASIAN AMERICANS ADVANCING JUSTICE, VOICES OF DEMOCRACY: ASIAN AMERICANS AND LANGUAGE ACCESS DURING THE 2012 ELECTIONS 14 (2013) [hereinafter VOICES OF DEMOCRACY]; ELECTION PROTECTION 2012, *supra* note 55, at 46; OurVoteLive.org, *supra* note 55, at Report Nos. 35360, 46840, 61706; ELECTION PROTECTION, ELECTION PROTECTION 2008 PRIMARY REPORT 4 (2008), available at <http://www.866ourvote.org/newsroom/publications/document/0019.pdf>; ELECTION PROTECTION 2006, *supra* note 54, at 18.

<sup>63</sup> ELECTION PROTECTION 2006, *supra* note 54, at 18.

<sup>64</sup> WENDY WEISER & VISHAL AGRAHARKAR, *supra* note 53, at 9 (citing Ian Urbina, *Reports of Intimidation and Electronic Problems Surface at Polls across the U.S.*, N.Y. TIMES, Nov. 2, 2010, at [www.nytimes.com/2010/11/03/us/politics/03voting.html](http://www.nytimes.com/2010/11/03/us/politics/03voting.html); Associated Press, *Group: Robocalls Gave Spanish-Speaking Voters Late Polling Date*, CBS LOS ANGELES (Nov. 2, 2010, 3:44pm), <http://losangeles.cbslocal.com/2010/11/02/group-robocalls-gave-spanish-speaking-voters-late-polling-date>).

<sup>65</sup> CAMILLE RYAN, LANGUAGE USE IN THE UNITED STATES: 2011 11 (Am. Community Survey Reports 2013), available at <http://www.census.gov/prod/2013pubs/acs-22.pdf>; see also AsianWeek Staff, *Governor Signs Bill Promoting Greater Availability Of Bilingual Poll Workers*, ASIANWEEK, Aug. 27, 2013, <http://www.asianweek.com/2013/08/27/governor-signs-bill-promoting-greater-availability-of-bilingual-poll-workers> (quoting Carolyn Hsu, Attorney at Asian Law Caucus, noting that there are 2.6 million LEP eligible voters in California).

<sup>66</sup> U.C. Davis Center for Regional Change, *Is Democracy Political Destiny? Population Change and California's Future Electorate*, Cal. Civic Engagement Project, Pol'y Brief Issue 7 (Jan. 2014) at 1-2.

<sup>67</sup> Data from: RYAN, *supra* note 64, at 13-14.

<sup>68</sup> CAL. GOV. CODE §§ 7293-95.

<sup>69</sup> *Voters With Disabilities*, California Secretary of State (2014), [http://www.sos.ca.gov/elections/elections\\_dis.htm](http://www.sos.ca.gov/elections/elections_dis.htm).

<sup>70</sup> *Cases Raising Claims Under the Language Minority Provisions of the Voting Rights Act*, U.S. DEP'T OF JUSTICE, <http://www.justice.gov/crt/about/vot/litigation/recent203.php> (last visited Jan. 17, 2014).

<sup>71</sup> See *id.*

<sup>72</sup> ELECTION PROTECTION 2012, *supra* note 55, at 45.

<sup>73</sup> VOICES OF DEMOCRACY, *supra* note 61, at 14.

<sup>74</sup> *Id.* at 13.

<sup>75</sup> OurVoteLive.org, *supra* note 55, at Report Nos. 12871, 64706, 65160.

<sup>76</sup> *Id.* at Report No. 45825.

<sup>77</sup> *Id.* at Report No. 16562.

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