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Voter Suppression in a Post-Racial Society: Examining Allegations of Voter Disenfranchisement

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a thesis submitted to the Faculty of Emory College of Arts and Sciences  
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## Abstract

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By Jeffeline Ermilus

In light of the Supreme Court's 2013 decision to repeal part of the Voting Rights Act of 1965, many claim that the window for voter disenfranchisement has been widened. The idea is that past forms of discrimination have not been prohibited; they have merely changed forms to fit into the context of a color-blind, post-racial society. Using data on the elections from 2004-2012, I attempt to support or discredit the idea that voter identification statutes have a deterrent effect on turnout amongst minority populations, particularly African Americans.

In the first part of the analysis, I describe the patterns of provisional ballot rejections on the basis of insufficient identification in the context of states that have enacted restrictive voter identification requirements. For over half of the states which enacted legislation, the frequency of provisional ballot rejections increased in the same year or the year immediately after the adoption of restrictive legislation.

In addition to looking at national trends, I perform a series of regression analyses for the case of Michigan, which rejected the most provisional ballots due to insufficient identification in the 2012 general election. The results suggest that the larger the proportion of African American residents in a county, the more likely provisional ballots are issued and ultimately rejected, supporting the idea that some voter disenfranchisement is occurring in states that impose voter identification restrictions.

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## Introduction

In recent years claims of electoral fraud have become a major source of political tension— a tension complicated by some likelihood that the fraud is virtually non-existent. While state governments have mounted campaigns to decrease instances of voter fraud, data show that the frequency of such fraudulent activities is negligible at best. Since 2000, News21 has collected data in regards to 2,068 reported<sup>1</sup> cases of alleged election fraud out of the 146 million people registered to vote. Of those reported cases, only ten dealt with voter impersonation fraud defined as “individuals who vote in person on Election Day by impersonating another registered voter”.<sup>2</sup> At a micro-level, Tennessee, which attempted to pass 53 laws related to presenting proper voter identification at the polls in 2012, has reported zero cases of voter identification fraud in the past 12 years.<sup>3</sup>

Tennessee is not alone. Over one thousand bills have been proposed since 2001 in efforts ostensibly made to achieve accurate voter identification across all fifty states. The tension in the political arena stems from how officials are justifying these actions when there is little evidence

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<sup>1</sup> “Despite the huge News21 public-records request effort, the team received no useful responses from several states — for instance, the lone cases in the database from Massachusetts, Oklahoma, South Carolina and South Dakota all came from the RNLA survey. Even in states where some local jurisdictions responded, others didn’t. In addition, it is possible that some jurisdictions that did respond failed to include some cases. Another problem is that some responses News21 received were missing important details about each case — from whether the person was convicted or charged to the circumstances of the alleged fraud to the names of those involved. Still, with those caveats, News21 is confident this database is substantially complete and is the largest such collection of election fraud cases gathered by anyone in the United States.”

<sup>2</sup> Carson, C. (2012, August 12). Election Fraud in America. News21.

<sup>3</sup> Ibid.



to support their claims. On the surface, the media frames the issue as a typical political quarrel between the two dominant parties. Some Republican officials have gone on record in order to say that voter identification requirements are proposed to combat cases of fraud on election days.<sup>4</sup> In an unconventional move, a few Republicans have admitted that the goal of the party's efforts are to reduce Democratic turnout by methods such as removing precincts, enacting voter ID laws, and reducing early voting days.<sup>5</sup> The logic is that such procedures will directly impact democratic electorate mostly comprised of students, the elderly, and minority populations. Perhaps most troublingly, is the probability that whatever demographics are affected, the primary target of voting regulations may be minority populations, especially African Americans. Democrats have fired back at Republicans, alleging that "There is clearly a national strategy to disenfranchise voters for partisan political purposes and it is the most widespread and aggressive such campaign since the Jim Crow era".<sup>6</sup>

Such statements open a broader and much more contentious conversation. Many critics, such as a former Secretary of State Colin Powell (R) and Attorney General Eric Holder (D) support

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<sup>4</sup> Hutchinson, E. O. (2012, June 4). GOP Steps Up Bogus War on Voter Fraud. *The Huffington Post*, p. 1. Retrieved 2013 14, December, from [http://www.huffingtonpost.com/earl-ofari-hutchinson/gop-steps-up-bogus-war-on\\_b\\_1566881.html](http://www.huffingtonpost.com/earl-ofari-hutchinson/gop-steps-up-bogus-war-on_b_1566881.html)

<sup>5</sup> Quigley, M., Stapleton, C., Kam, D., & Lantigua, J. (2012, November 25). Former Florida GOP leaders say voter suppression was reason they pushed new election law. *The Palm Beach Post*. Palm Beach. Retrieved from <http://www.palmbeachpost.com/news/news/state-regional-govt-politics/early-voting-curbs-called-power-play/nTFDy/>

<sup>6</sup> Cratty, C. (2012, July 26). *Republicans slam Justice Department on voter ID moves*. Retrieved from CNN Politics: <http://www.cnn.com/2012/07/26/politics/house-voter-id-laws/index.html?iref=allsearch>

the accusations of racial bias in election legislation. Both suspect the Republican party of actively participating in the politics of voter suppression and disenfranchisement.<sup>7</sup> Indeed, Representative Jerrold Nadler's aforementioned reference to Jim Crow era policies mirrors the arguments being made across surveyors of racial politics. Adherents of theories of implicit bias and color-blind racism suggest that this is another form of diluting the political power of minority groups. Perhaps the deepest concern of some fraud-fighting legislators is the increasing numbers of minorities turning up at the polls. African Americans have shown up at the last two national elections in record numbers, and may have even surpassed the ratio of white voter turnout (measured by those who voted out of those eligible to vote by race) despite, or in spite, of supposed voter suppression techniques.<sup>8</sup> Such a show of political power by a minority group is said to have reignited the practice of voter suppression although those who support restrictive policies are more than hesitant to call it disenfranchisement.

Voter suppression and disenfranchisement are words that elicit thoughts of America's deep history of racial discrimination. There has been increasing research into this issue, especially surrounding the Supreme Court's decision to repeal Section IV of the Voting Rights Act of 1965 (VRA). The law was structured to deter certain states and jurisdictions from actively preventing African Americans from reaching the polls. By the efforts of the United States Department of Justice (DOJ) Congress wanted to ensure that, "jurisdictions covered by these

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<sup>7</sup> Kopan, T. (2013, August 22). *Colin Powell slams North Carolina voting law*. Retrieved from Politico: <http://www.politico.com/story/2013/08/colin-powell-north-carolina-voting-law-95813.html>

<sup>8</sup> File, T. (2013, May 8). *Blacks Voted at a Higher Rate than Whites in 2012 Election — A First, Census Bureau Reports*. Retrieved from United States Census Bureau: <http://www.census.gov/newsroom/releases/archives/voting/cb13-84.html>

special provisions could not implement any change affecting voting until the Attorney General or the United States District Court for the District of Columbia determined that the change did not have a discriminatory purpose and would not have a discriminatory effect.”<sup>9</sup> Many argue that such discrimination is no longer prevalent and therefore invalidate the need of the VRA. On the other hand, scholars such as Professors Keith Bentele and Erin O’Brien suggest that this uptake in restrictive voting policies mirror the motivations for historical voter suppression tactics.<sup>10</sup> I suggest that changes in election laws that suppress voting is one illustration of a larger pattern of structural racism conducted under the veil of a “post-racial” America. From the times of slavery and through the Jim Crow era, and to the current “post racial” era, there has been a shift from explicit forms of discrimination to more implicit means of discriminating against minorities. Formerly overt legal methods of isolating minorities from structures within American society have shifted to racially neutral legislation that often yields disparate impacts. This thesis intends to argue that the relatively recent developments in election politics follow a broad pattern of racial politics.

Of the two claims being made in the debate over voter identification laws, the prevalence of voter fraud has been debunked. In addition to assessing the validity of critical race theory, there is a need to confirm or refute the idea that identification laws are racially motivated. Much of the current research deals with linking political parties to either side of the issue, but this

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<sup>9</sup> The United States Department of Justice. (n.d.). *History of Federal Voting Rights Law*. Retrieved from The United States Department of Justice: [http://www.justice.gov/crt/about/vot/intro/intro\\_b.php](http://www.justice.gov/crt/about/vot/intro/intro_b.php)

<sup>10</sup> Bentele, K., & O'Brien, E. (n.d.). Jim Crow 2.0?: Why States Consider and Adopt Restrictive Voter Access Polices. *Perspectives on Politics*. Boston: Univeristy of Massachusetts Boston.

thesis will attempt to assess the effectual impact of such policies. Even though national patterns show increased African American political participation, some skepticism remains as to whether this is true across all states, especially those with a history of discrimination. Are these policies actually working to reduce the minority vote at a mezzo- level of analysis? Does the behavior of states fit within this schema of racial bias or align with the assumptions being made by critics of election related legislation? Specifically, the data analysis will estimate and assess the impact of voter suppression as assessed in terms numbers of provisional ballots cast and provisional ballots rejected between the elections from 2004-2012 on the basis of insufficient identification. Such an analysis isolates voter identification requirements from a myriad of other factors that may affect turnout. Furthermore, a look at state-level data should reveal whether provisional ballot rejections positively or negatively coincide with the occurrence of majority-minority districts.

### **Voter Suppression in the Context of Critical Race Theory**

In order to understand the context of the claims being made against supporters of voting restrictions, we should first explore the logic behind why such laws even raise suspicion of racial discrimination. In the eyes of many Americans, the United States is in a “post-racial” era.<sup>11</sup> Like Justice Antonin Scalia, they believe, “In the eyes of government, we are just one race here. It is American.”<sup>12</sup> It is hard to recall a current piece of legislation that has explicitly racial distinctions. The most commonly cited example of reform is the election of an African American president, taken to show that America has moved past its prejudiced beginnings. As

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<sup>11</sup> Wise, T. (2010). *Colorblind: The Rise of Post-Racial Politics and the Retreat from Racial Equity*. San Francisco: City Lights Bookstore.

<sup>12</sup> Orfield , G., & Eaton, S. (1996). *Dismantling Desegregation: The Quiet Reversal of Brown V. Board of Education*. New York: W.W. Norton & Company, Inc.

counterexamples, researchers point to continued racial disparities across education, the criminal justice system, housing, politics, and a number of other structures within American society. The nation is long removed from laws that mandate segregated schools but there are still relatively similar configurations of racially isolated schools.<sup>13</sup> There is a pattern across American society's structures in which the effects of formerly overt discrimination persist long after racism is said to have disappeared.

Author Eduardo Bonilla-Silva offers an explanation for the paradoxical nature of a seemingly color-blind America with racially marginalized populations. Reducing the term racism to an ideological view of white hegemony over nonwhites is an incomplete assessment. To understand contemporary racism we must consider the ways in which such an ideology is reinforced and perpetuated throughout various American systems, allowing for the continued subjugation of minorities. Prior to the progress achieved by the Civil Rights Movement, whites' ideas of supremacy were legally reflected in slave codes, black codes, or Jim Crow laws. In his book, *Racism without Racists*, Bonilla-Silva proposes that there is "new-racism" that has emerged with the displacement of Jim Crow. He states, "new-racism' practices have emerged that are more sophisticated and subtle than those of the typical Jim Crow era. Yet...these practices are as effective as the old ones in maintaining the racial status quo."<sup>14</sup> In speaking of racism, modern sociologists veer away from discussing openly expressed bigotry against nonwhites. Instead, authors such as Bonilla-Silva and Michelle Alexander focus on how

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<sup>13</sup> Siegel-Hawley, G., Ayscue, J., Kuscera, J., & Orfield, G. (2013, March 13). Miles to Go: A Report on School Segregation in Virginia. The Civil Rights Project.

<sup>14</sup> Bonilla-Silva, E. (1962). *Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in America*. Lanham: Rowman and Littlefield Publishers, Inc, p. 25.

institutions and structures recreate racial inequality through covert practices. The laws of our society have shifted from restrictive housing covenants against blacks to real estate practices that all but encourage African Americans to live amongst “their own”. The language used is no longer laced with racial distinctions; in its place there exists race-neutral laws that have the consequential effect of limiting minority populations.

There are a few systems that show this evolution of racism including the education system and the criminal justice system. Education, much like the right to vote, was once limited to white male citizens. Early settlers of America recognized that education was a crucial factor for individuals to be capable of political participation. Slaves were barred from the universal, compulsory education system created by local governments. Many slave codes such as those used in South Carolina, Georgia, Virginia, followed a model that reflected the following assertion:

The slave not being regarded as a member of Society, nor as a human being, the Government instead of providing for his education, takes care to forbid it, as it being inconsistent with the condition of chattelhood<sup>15</sup>

Subsequently much emphasis was placed such slave codes that prohibited African Americans from being educated or educating themselves, in order to keep them largely illiterate and isolated from the political processes that worked to keep them subordinate. Following the emancipation of the slave population, slave codes were replaced with Jim Crow laws that mandated the strict segregation of schools, where black schools failed to meet even the basic standards of their white counterparts. Although *Brown v Board of Education* invalidated the legal segregation of schools, many American schools remain highly segregated, with relatively poor resources and lower

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<sup>15</sup> Goodell, W. (1853). *The American Slave Code in Theory and Practice: Its Distinctive Features Shown By Its Statutes, Judicial Decisions, and Illustrative Facts*. New York: American and Foreign Anti-Slavery Society, p. 319.

student performance. Much of the lack of resources stems from school funding being dependent on community property taxes, where nonwhite communities are not able to meet the needs of the school district yet alone match the income generated by majority white districts.<sup>16</sup>

Author Michelle Alexander illustrates the same pattern, of a shift in overt discrimination to new methods of disenfranchisement. In her book, *The New Jim Crow* Alexander writes, “Rather than rely on race, we use our criminal justice system to label people of color ‘criminals’ and then engage in all the practices we supposedly left behind...it is perfectly legal to discriminate against criminal in nearly all the ways it was once legal to discriminate against African Americans.”<sup>17</sup> She claims that slavery or Jim Crow policies are not essential when African Americans are disproportionately represented among prison populations and upon achieving felony status, subsequently denied employment, housing, voting rights, educational opportunity, social assistance, jury duty, and several other political and civil rights.<sup>18</sup>

## **A History of Voter Suppression**

Education and the criminal justice system are a couple popular examples often cited in regards to critical race theory. With that in mind, a popular expression suggests that “Once is an accident. Twice is a coincidence. Three times is a pattern.” We have briefly discussed the development of racism as it relates to the education and criminal justice systems, and if we map the progress of voting rights, we can see it following a similar pattern. Reducing minority

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<sup>16</sup> Orfield, G., & Eaton, S. (1996). *Dismantling Desegregation: The Quiet Reversal of Brown V. Board of Education*. New York: W.W. Norton & Company, Inc.

<sup>17</sup> Alexander, M. (2012). *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: New Press.

<sup>18</sup> Ibid.

education and felon access to means of subsistence serve to indirectly exclude minorities from the political process, helping to maintain the status quo of white control. Methods of voter suppression, however, directly impact the ability of African Americans to be represented within America's political system and therefore render them unable to affect the social changes necessary to improve their standard of living

The history of voter suppression unfolds in a similar manner to the two previous examples. The founders of the United States envisioned a nation full of free and equal people, with a few caveats; in addition to indigenous people, black men and all women were denied the civil, political, and social rights reserved for land, owning white males. African Americans who fought in the revolutionary war under the assumption that they would have access to rights they were defending were disappointed. Between the founding of the United States under the Constitution to their eventual emancipation, African Americans had unfortunate experiences in expressing their civil rights.

The experience of a freedman in the north was markedly different from a slave in the North or blacks of the South. At the conclusion of the American Revolution most northern states, such as New York, Pennsylvania, Rhode Island, and Massachusetts began a process of gradual emancipation of their slaves, who represented a small minority at the time.<sup>19</sup> Upon emancipation, freed slaves were granted the right to vote that soon proved to be a problem when a few elections appeared to be decided by African American votes. Blacks rallied behind the Federalists who promoted their enfranchisement and were consequently met with opposition from the Republican Party. Republicans introduced methods to deter the freedmen from voting by mandating proof of freedmen status at the polls, property ownership qualifications, or demonstrating outright

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<sup>19</sup> Piven, F.F., *Keeping Down the Black Vote*, p. 22.



violence. In the case of Pennsylvania, the violence rose to a point where the state eventually repealed the voting rights of blacks<sup>20</sup>

There was a vastly different story happening in the South where more than four million African Americans made up a third of the population. Approximately 95% of those blacks were previously enslaved.<sup>21</sup> Freedman or otherwise, those individuals were relegated to the lowest point of the civil and social hierarchy, well below the poorest of whites in their communities. According to William Goodall, slaves were regarded as chattel and they possessed no civil rights lest the entire institution of slavery be compromised.<sup>22</sup> Any inclination toward regarding the slave as more than property would lead to slaves challenging the institution of slavery by seeking redress through legal or judicial means. The scant amount of literature devoted to the rights of Southern freedmen before emancipation reflects this status of subordination<sup>23</sup>

In the latter half of the nineteenth century, America underwent rapid changes that had a substantial effect on the voting rights of the black population. Prior to the Civil War, the North had been moving steadily toward freeing its slaves and enfranchising them thereafter. The South, in contrast, was working toward expanding slavery within its own territory and into newly acquired territory gained at the completion of the Mexican American War. Swiftly following the end of the Civil War in 1865, Congress passed the Thirteenth, Fourteenth, and Fifteenth

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<sup>20</sup> Ibid, p. 22-23.

<sup>21</sup> Pessen, E. (1980, December). How Different from Each Other Were the Antebellum North and South? *The American Historical Review*, 85(5), 1119-1149, p. 1121.

<sup>22</sup> Goodall, *The American Slave Code*, p. 292.

<sup>23</sup> Gerteis, L. S. (1973). *From Contraband to Freedman: Federal Policy Toward Southern Blacks, 1861-1865*. Greenwood Press, Inc.

Amendments which outlawed slavery, guaranteed due process and equal protection under the law to all citizens, and prohibited voter discrimination on the basis of race respectively. These three amendments are referred to as the Reconstruction Amendments that ushered in a tumultuous era of American political life. Tension mounted between millions of newly enfranchised blacks and their white counterparts. Though the freedmen had a more difficult time exercising their newfound suffrage in the South, black men still managed to vote with extraordinarily high turnout during this time, succeeding in electing black representatives to local and federal positions. Virginia had as many as 90% of eligible black male voters casting ballots at the polls.<sup>24</sup>

Tension between the two sides may be an understatement. The rise of the African American voting block after the Civil War drew deep antagonism from whites. While the North experimented with allowing African Americans to vote, it was forced upon the South as a condition of them rejoining the Union. The Reconstruction Acts of 1867 required southern states to ratify the pending constitutional amendments and offer race-neutral access to the polls.<sup>25</sup> At its peak, two-thirds of eligible black males were voting in presidential and statewide elections but that was not a simple undertaking.<sup>26</sup> Redrafted constitutions of Southern states, in which blacks

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<sup>24</sup> Piven, F.F., *Keeping Down the Black Vote*, p. 23.

<sup>25</sup> Chin, G. J. (2004). The "Voting Rights Act of 1867": The Constitutionality of Federal Regulation of Suffrage During Reconstruction. *North Carolina Law Review*, 82, 1581-1608, p. 1581.

<sup>26</sup> Grofman, B., & Davidson, C. (1992). *Controversies in Minority Voting: The Voting Rights Act in Perspective*. Washington, D.C.: The Brookings Institution, p. 10.

had minimal input, were found to undermine most of the provisions set forth by the Reconstruction Acts.<sup>27</sup>

The Reconstruction and Jim Crow eras represent an intermediate point in the transition from open racism to “colorblind” injustice. For the first time in American history it was illegal to discriminate on the basis of race, color, or previous condition of servitude. Nevertheless, to obstruct the realization of rights for blacks, whites participated in various methods of voter suppression that peaked in the late nineteenth century. Though the legislation did not frame the tactics in racialized language, the intentions behind such regulations were unmistakably racially motivated. Whites justified their actions as, “a necessary evil to prevent a return to the ‘horrors’ of Reconstruction.”<sup>28</sup> Obstructionists’ tactics were varied and effective. Poll taxes, literacy tests, and grandfather clauses, were some of the most common means of deterring African Americans from voting.<sup>29</sup> Many blacks could not afford to pay the fee to vote. Recently freed slaves were largely illiterate. Grandfather clauses required that the voter’s grandfather to have voted in a previous election excluded the vast majority of African Americans. Wherever it was possible, especially in the South, suffrage legislation was undermined or not judicially enforced. For example, in 1882, South Carolina required individuals of voting age to register between May and June or else be permanently barred from registering to vote.<sup>30</sup> By 1895, eight of eleven southern states were using secret ballots designed to confuse illiterate voters that made it past other

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<sup>27</sup> Ibid.

<sup>28</sup> Ibid, p. 26

<sup>29</sup> Piven, F.F., *Keeping Down the Black Vote*, p. 27.

<sup>30</sup> Lawson, S. F. (1999). *Black Ballots: Voting Rights in the South, 1944-1969*. Lanham: Lexington Books, p. 6.

obstacles to the polls. These methods also had the effect of disenfranchising poor, illiterate whites.<sup>31</sup>

The effect of such behaviors by parties opposed to black enfranchisement was a drastic decrease in the number of blacks voting. In the South turnout in presidential elections fell from 57 percent in 1896, to 43 percent in 1900, to 28 percent in 1912, and finally to 19 percent in 1924.<sup>32</sup> Despite the best efforts of the alliance between a transformed Republican Party (who supported black enfranchisement in return for their votes) and African Americans, Democrats began to win electoral battles all the while making it their mission to unravel gains made by African Americans.

The gradual, pervasive, and successful dismantling of the African American voting union continued well into the twentieth century even after the US expanded voting rights to include women in 1920. It was not until the Civil Rights Movement picked up steam, becoming increasingly visible and violent, did the federal government take steps to intervene in the discriminatory processes occurring throughout Jim Crow America.<sup>33</sup> Shortly after the passage of the Civil Rights Act of 1964, Congress passed the Voting Rights Act of 1965 under President Lyndon B Johnson. The act prohibited local and state governments from enacting policies that could inhibit a person's ability to vote through any qualification or prerequisite to voting, standard, practice, or procedure. Most controversially the Voting Rights Act granted the Department of Justice the right to screen proposed legislation that dealt with changes in election

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<sup>31</sup> Piven, F.F., *Keeping Down the Black Vote*, p. 27.

<sup>32</sup> *Ibid*, p. 29.

<sup>33</sup> Wang, T. A. (2012). *The Politics of Voter Suppression: Defending and Expanding Americans' Right to Vote*. Ithica: Cornell University Press, p. 31.

laws prior to their implementation. Other provisions gave the attorney general power to delegate officials to monitor elections, standing to file suit against potentially discriminatory voting requirements, and authority to prosecute individuals accused of operating in a manner inconsistent with fair election practices.<sup>34</sup> Tova Wang writes, “While the laws were national in scope, the southern states were the clear targets of these legislative actions.”<sup>35</sup> Indeed, drafters and proponents of the bill intended for the VRA to be “impervious to all legal trickery and subversion,” and the special provisions included in sections 4 through 9 specifically addressed southern localities.<sup>36</sup>

The results were immediate. Just a day after the passage of the VRA, Attorney General Katzenbach was able to discontinue literacy tests in seven states as well as in counties of North Carolina and Arizona.<sup>37</sup> The Voting Rights Act has withstood several attempts at its dismantling, including a repeal campaign led by President Nixon and numerous congressional debates on its renewal. However, the legislation succeeded in reengaging black voters, with participation increasing to 60% in the South. As black participation rises, there has been increasing creativity in methods of denying access to the polls

### **Current State of Voting**

The politics of voter suppression in the post-WWII era has primarily been a partisan game between America’s two-party systems. However, parties quickly realized that to be victorious in local or national elections they would have to control the black vote. Republican

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<sup>34</sup> Grofman, B., & Davidson, C. , *Controversies in Minority Voting*, p. 21

<sup>35</sup> Wang, T. A., *The Politics of Voter Suppression*, p.32

<sup>36</sup> Grofman, B., & Davidson, C. , *Controversies in Minority Voting*, p. 18

<sup>37</sup> Ibid.

northerners sought to advance black suffrage while southern Democrats aimed to suppress it by any means necessary. Even after the passage of the VRA, Democrats still attempted to use blatantly discriminatory practices against blacks.<sup>38</sup> It was not until the realignment of blacks to the Democratic Party as a result of the New Deal policies, beginning in the 1920s and culminating in the 1960s, did we see the parties consolidate and take on the forms we currently see today. Democrats have been increasingly able to attract black voters to their constituency just as the Republicans had been able to. “By the time the South turned to the Republican Party at most levels of elected office in the 1980s and 1990s, it was southern Republicans who were most inclined to use election laws to depress the African American and Democratic vote,” says Wang.<sup>39</sup>

The progression of voting rights appears to fit the pattern of shifting racism that has been reflected in studies of racial disparities in American structures. The Republican and Democratic parties are still being accused of attempting to manipulate elections by suppressing or pandering to the black vote. Most recently the Republican Party is charged with finding new and innovative ways of abridging voting rights without outwardly expressing intent to marginalize minority voters. Such methods include variance in redistricting, felon disenfranchisement, and election-day procedures, the latter of which includes the crux of this paper, voter identification requirements. Whether these laws have the desired effect of isolating minority voters is constantly under exploration, but for now we will discuss the logic behind the allegation that they are intended to limit black voting.

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<sup>38</sup>Wang, T. A., *The Politics of Voter Suppression*, p. 33.

<sup>39</sup> Ibid.

## Redistricting

Redistricting is the process by which localities adjust electoral boundaries in order to respond to changes in population. As the population increases or decreases, legislators must redraw districts to assure proportionality as set by state or federal regulations. In pure form, the number of US Representatives per state would be redistributed in accordance to the state's share of the overall population, with each representative covering a comparable amount of people. The fairly routine procedure becomes controversial when critics accuse officials of gerrymandering, or manipulating the boundaries to gain a political advantage by isolating certain demographics. Boundaries are drawn in irregular ways in order to fit incumbents' visions of the ideal electorate that is conducive to their political goals. A version of the practice is racial gerrymandering which is commonly cited as a method of dispersing the minority vote below thresholds that might threaten the majority by increasing minority shares of elected offices, especially in key electoral areas. Racial gerrymandering can be achieved in several ways. One way is *cracking*. The term refers to the way officials divide dense African American populations into districts with majority white populations.<sup>40</sup> *Stacking* is slightly different and involves taking a majority minority district and adjoining it to a predominately white one.<sup>41</sup>

Even before the VRA granted the executive branch legal standing to challenge such gerrymandering, the courts had already weighed in on the issue. The 1960 case of *Gomillion v Lightfoot*<sup>42</sup> held Alabama's geographical exclusion of black voters unconstitutional. The

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<sup>40</sup> Whitby, K. J. (1997). *The Color of Representation: Congressional Behavior and Black Interests*. Ann Arbor: University of Michigan Press, p. 114.

<sup>41</sup> Ibid, p. 115

<sup>42</sup> *Gomillion v. Lightfoot*, 364 U.S. 339 (The United States Supreme Court 1960).

Supreme Court reiterated its stance against malapportioned districts in *Reynolds v Sims*.<sup>43</sup> In the wake of the VRA passage, part of which bans redistricting in order to dilute minority votes, the Court revisited the issue in *Allen v State Board of Elections*<sup>44</sup>, a consolidation of a few Virginia cases in 1969.<sup>45</sup> The majority of the justices sided with the plaintiffs, agreeing that obstructing voting includes processes that undermine the effectiveness of the vote.<sup>46</sup> The VRA provided an avenue to raise direct objections to state practices and the USDOJ wasted no time in pursuing outstanding cases.

The Justice Department, in the three and one-half years between passage of the [VRA] and the *Allen* decision, had objected to only six proposed changes in election procedure in covered jurisdictions, and none of these concerned vote dilution. In the three and one-half years following *Allen*, there were 118 objections, of which 88 involved dilution schemes...A tally at the end of 1989 revealed that 2335 proposed changes had been objected to under Section 5.<sup>47</sup>

While the Justice Department aggressively tackled blatantly discriminatory redistricting schemes, state officials became more creative in how they devised them. It is increasingly difficult to parse out the discriminatory intent in racial gerrymandering because it is an area of politics where all actors can gain an advantage. Members of the legislature, independent of party affiliation, may agree to the terms boundary plan where the majority-minority electoral composition is mutually beneficial to those involved. For example, legislators can draw a district line that encompasses most of the African American neighborhoods and leaves majority white

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<sup>43</sup> *Reynolds v. Sims*, 377 U.S. 533 (The United States Supreme Court 1964).

<sup>44</sup> *Allen v. State Board of Elections*, 393 U.S. 544 (The United States Supreme Court 1969).

<sup>45</sup> Grofman, B., & Davidson, C. , *Controversies in Minority Voting*, p. 28.

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*, p. 28-29.



neighborhoods on the outside, which Whitby refers to as “packing”.<sup>48</sup> The process has eluded much Supreme Court scrutiny because opinions are divided as to how beneficial the practice is. Such an electoral district will be assumed to benefit minorities by assuring them some secure level of representation while benefitting majorities by buffering them against high minority shares of elected offices. While the process aids in the election of black or Latino candidates in majority-districts it also has the effect of limiting minority representation to relatively small areas.

Opponents also say gerrymandering amounts to reverse discrimination against whites by favoring one racial composition over another. The Supreme Court Cases of *Shaw v Reno*<sup>49</sup> and *Miller v Johnson*<sup>50</sup> struck down the constructions of majority-minority districts in North Carolina and Georgia because a five to four majority in each case agreed that there was no other justification for the irregularity in the district drawings besides race; while race may be considered it could not be the “predominant factor”.<sup>51</sup> Furthermore, arguments abound on how much of a minority population is necessary for the group to have political influence within a constituency.

### **Felon Disenfranchisement**

Felony disenfranchisement is a long-standing process, originating as early as the 1850s and lasting well into today’s practices. Restrictions that covered 35% of states in 1850 were

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<sup>48</sup> Whitby, K. J., *The Color of Representation*, p.115.

<sup>49</sup> *Shaw v. Reno*, 509 U.S. 630 (The United States Supreme Court 1993).

<sup>50</sup> *Miller v. Johnson*, 515 U.S. 900 (The United States Supreme Court 1995).

<sup>51</sup> Whitby, K. J., *The Color of Representation*, p.118

extended to cover 96% of states in 2002.<sup>52</sup> The progression of the Civil Rights Movement brought down several barriers to voting but felon disenfranchisement has withstood the test of time, increasing to cover a prison population that has grown as much as 500% percent in the past thirty years.<sup>53</sup>

As with many alleged attempts at voter suppression, felon disenfranchisement laws appear to be race-neutral in their language but their application is tied to a racially disparate system; one that has been in place since 1882, the point in which African American inmates surpassed the number of white inmates.<sup>54</sup> While the Reconstruction Amendments aimed to engage marginalized groups in the civil and political arena, felon disenfranchisement survived the debates. In 1974, the Supreme Court held that felons could be barred from voting without violating the Fourteenth Amendment<sup>55</sup>, which allows for the exclusion of rebels and criminals.<sup>56</sup> Many of the felon restrictions on voting had been in place dating back to the colonial period, and upon their affirmation by the Supreme Court, became one of the easiest and most immediate ways to bar newly enfranchised blacks from the ballot box.

The Bureau of Justice Statistics estimates that the number of individuals in jail or in prison to be 2, 228,400 as of 2012. In total, they estimate 6,937,600 individuals to be under the

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<sup>52</sup> Behrens, A., Uggen, C., & Manza, J. (2003). Ballot Manipulation and the "Menace of Negro Domination": Racial Threat and Felon Disenfranchisement in the United States, 1850-2002. *American Journal Of Sociology*, 109(3), p. 564.

<sup>53</sup> *Racial Disparity*. (n.d.). Retrieved from Sentencing Project:  
<http://www.sentencingproject.org/template/page.cfm?id=122>

<sup>54</sup> Behrens, A., Uggen, C., & Manza, J., *Ballot Manipulation*, p. 560.

<sup>55</sup> *Richardson v. Ramirez*, 418 U.S. 24 (Supreme Court of the United States June 24, 1974).

<sup>56</sup> *Ibid.*

control of America's correctional facilities, whether they are on probation, parole, or currently incarcerated.<sup>57</sup> The Sentencing Project estimates that more than sixty-percent of those within the prison system are minorities.<sup>58</sup>

According to The Sentencing Project, 53 million Americans (1 in 40 adults) were unable to vote due to a felony conviction in the 2008 elections. This included 14 million African-American men, more than 676,000 women, and 21 million ex-offenders who have completed their sentences".<sup>59</sup>

African Americans are disproportionately represented in these numbers despite comprising 13.1% of the aggregate population.<sup>60</sup> In large part, this is due to a system of disparate policing practices where blacks are more likely to be stopped, arrested, prosecuted, and imprisoned. Evans, Maragh, and Porter write, "In both 2006 and 2011, nearly 90 percent of all stops involved non-whites. In 2011, nearly 53 percent of those stopped were black, approximately 34 percent were Hispanic, and nine percent were white."<sup>61</sup> For the vast majority, their right to vote is stripped just as soon as they receive a felony conviction. In some states, the disenfranchisement is temporary and in others, it is a life sentence of political impotence. Maine and Vermont are the only states that keep felon-voting rights intact while Florida, Iowa, Kentucky, and Virginia

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<sup>57</sup> Herberman, E. J., & Glaze, L. E. (2013). *Correctional Populations in the United States, 2012*. Washington: Bureau of Justice Statistics.

<sup>58</sup> Sentencing Project, *Racial Disparity*.

<sup>59</sup> National Conference of State Legislatures. (2014, February 18). Felon Voting Rights. Retrieved from National Conference of State Legislatures: <http://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>

<sup>60</sup> U.S. Census Bureau. (n.d.). State & County QuickFacts. The United States Census Bureau. Retrieved 24 2014, March, from <http://quickfacts.census.gov/qfd/states/00000.html>

<sup>61</sup> Evans, D., Maragh, C., & Porter, J. (2014). What do we Know About NYC's Stop and Frisk Program? A Spatial and Statistical Analysis. *Advances in Social Sciences Research Journal* , 1 (2), 129-144.

permanently bar felons from voting.<sup>62</sup> Because of the overlap between mass incarceration and American blacks, as many as 26.42% of former felons within America's voting age population are ineligible to vote.

Authors Angela Behrens, Christopher Uggen, and Jeff Manza use excerpts from the media and political debates in Southern states to illustrate how actors veiled their attempts to disenfranchise blacks through felon limitations. South Carolina politicians used the threat of being outnumbered by blacks to promote legislation that spread felon disenfranchisement to ex-felons.<sup>63</sup> During the unraveling of Reconstruction the message was clear:

Fortunately, the opportunity is offered the white people of the State in the coming election to obviate all future danger and fortify the Anglo-Saxon civilization against every assault from within and without, and that is the calling of a constitutional convention to deal with the all important question of suffrage—Daily Register, Columbia, South Carolina, October 10, 1894

The justification for whatever manipulation of the ballot that has occurred in this State has been the menace of Negro domination. These provisions are justified in law and in morals, because it is said that the Negro is not discriminated against on account of his race, but on account of his intellectual and moral condition.”—John B Knox, president of the Alabama Constitutional Convention of 1901, in his opening address<sup>64</sup>

The current language is devoid of such racial language but the authors believe the significance is the same. In 2001, it is less controversial to say,

“If it's blacks losing the right to vote, then they have to quit committing crimes. We are not punishing the criminal. We are punishing conduct. You need to tell people to stop committing crimes and not feel sorry for those who do.”—Rep John Graham Altman (R-Charleston) advocating a more restrictive felon disenfranchisement provision in South Carolina<sup>65</sup>

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<sup>62</sup> Unless they are pardoned by the governor

<sup>63</sup> Behrens, A., Uggen, C., & Manza, J., *Ballot Manipulation*, p. 570-571.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

Felon disenfranchisement laws are upheld, renewed, and broadened in the current day by legislators' ability to frame the issue in ways similar to the previous comments by Rep Altman.

Behrens, Uggren, and Manza also conduct an empirical analysis of felon disenfranchisement laws leading up to 2003. The first part of their research attempts to reconcile uptakes in felon disenfranchisement laws as a function of perceived racial threats, in the form of African Americans increases in population, power in political parties, improved economic conditions, and a host of other indicators of growing influence. The second part of their testing judges whether felon voting restrictions are dependent on the proportion of whites to blacks in the corrections system. The authors' findings suggest that the racial composition of states' prisons has much more significance than measures of racial threat on the adoption of felon disenfranchisement laws.

In cases where ex-felons have the opportunity to restore their voting rights, the bureaucratic red-tape often seems unnavigable. Some states automatically restore rights after the completion of the individual's sentence while others impose multiple years long waiting periods. Additionally, a few states require ex-felons to reapply for voting rights, a process which usually involves lengthy paperwork, documentation barriers, and the need to navigate through multiple government agencies.<sup>66</sup> The complexity of restoration laws combined with the general lack of knowledge concerning them is a burden ex-offenders may forego entirely.<sup>67</sup>

### **Election Day Protocols**

The kind of election procedure suspected to be voter suppressions tactics can be characterized as micro-inequities. Mary Rowe describes the process as “apparently small events

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<sup>66</sup> National Conference of State Legislatures, *Felon Voting Rights*.

<sup>67</sup> Ibid.

which are often ephemeral and hard-to-prove, events which are covert, often unintentional, frequently unrecognized by the perpetrator, which occur wherever people are perceived to be ‘different’.’<sup>68</sup> In the context of politics, election-day processes consist of various, subtle, seemingly routine procedures that have the effect of limiting or excluding targeted groups from the voting process. Something as seemingly inconsequential as adopting a precinct with limited parking spaces can deter people seeking to vote. While some strategies to discourage voters are embedded into long-established, facially neutral laws, many more techniques are adopted quickly in the days leading up to an election or achieved through behind the scenes actions at the polling sites.

An often-discussed method of hindering voters involves the manipulation of polling sites. Moving precincts away from their established locations may confuse routine voters. A more targeted approach involves intentionally moving precincts away from undesirable voters such as the elderly, students, low-income households, or minorities. In September of 2013, students of Appalachian State University filed suit against The Watauga County Board of Elections in Boone, claiming that the board combined three precincts into one extra-large precinct to block the students from voting. The new precinct is supposed to serve 9,300 residents in a site that has 35 parking spaces, located a mile away from their campus on a route with no sidewalks.<sup>69</sup> Large precincts like those in Watauga County, designed to serve thousands may not have the capacity to do so. A limited number of voting machines, staff, or polling hours often result in long wait times for those seeking to vote. Just the presence of seemingly endless lines can turn away voters

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<sup>68</sup>Rowe, M. (2008). Micro-affirmations and Micro-inequities. *Journal of the International Ombudsman*, 1(1).

<sup>69</sup>Blades, M. (2013, September 3). North Carolina Students Fight Back Against Voter Suppression Law. *Daily Kos*, p. 1.

like those in Central Florida during the 2012 elections. According to an analysis done by Theodore Allen, as many as 49,000 voters were discouraged from voting in the presidential elections due to long lines at the polls.<sup>70</sup> According to the article written by David Damron and Scott Powers of the *Orlando Sentinel*, one voter reported waiting approximately three hours in line before abandoning his attempt. The article also states that legislative changes to poll locations, hours, and early voting days happened across Florida counties, such as Orange and Osceola County, which tended to have higher percentages of Hispanic voters. In 2012, a court ruled that early voting cutbacks in Florida violated the VRA in light of the fact that African Americans outnumber whites by a two-to-one ratio among early voters.<sup>71</sup>

The previous examples illustrate the various ways in which the manipulation of simple processes can impact any voter. Students, waged workers, minorities, and the elderly are often affected the most due to their inflexible schedules and lack of access to voting sites. It is hard to imagine many over the age of 65 waiting three or more hours in order to vote. What troubles many supporters of voter suppression theories are the overlap between when and where these procedures are implemented, particularly in the case of majority minority areas.

Anne Friedman suggests there are two types of disenfranchisement that persist after the Civil Rights Era, partisan disenfranchisement and structural disenfranchisement; the former targets the entire party voting block while the latter focuses on marginalized groups.<sup>72</sup> Her study

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<sup>70</sup> Damron, D., & Powers, S. (2012, December 29). Researcher: Long lines at polls caused 49,000 not to vote. *Orlando Sentinel*.

<sup>71</sup> Berman, A. (2012, August 20). Ohio GOP Admits Early Voting Cutbacks Are Racially Motivated. *The Nation*, p. 1.

<sup>72</sup> Friedman, A. K. (2005, November). Voter Disenfranchisement and Policy toward Election Reforms. *Review of Policy Research*, 22(6), pp. 787-810.

makes the claim that African American population density and reports of disenfranchisement are positively correlated with the competitiveness of the margin between candidates in national elections.<sup>73</sup>

Piven et al provide an example of such voter suppression tactics that target predominately African American areas. In 2002, the authors write about a tight mayoral campaign in which the opposition deployed black sedans, similar to those used by federal law enforcement, to black neighborhoods, prompting voters to show identification.<sup>74</sup> This is just one form of harassment. In other cases, intimidation groups distribute misleading information about voter eligibility to African American voters or candidly challenge their credentials when they arrive to polling sites. In one notorious case, Ohio Secretary of State, J Kenneth Blackwell, ordered registration papers not printed on 80-pound weight paper to be rejected.<sup>75</sup>

### **Voter Identification**

Of the contested election-day procedures, voter identification requirements have become synonymous with efforts at voter suppression; however, this was not always the case. Following the divisive 2000 presidential election, in which critics claim that massive amounts of election irregularities took place in Florida, Congress passed the “Help America Vote Act” (HAVA) to standardize practices across states. The act, passed in 2002, requires that those who register by mail without having voted in a previous federal election provide proof of identification in any form that has their name and address listed. Not long after, states began modifying and

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<sup>73</sup> Ibid, p. 788

<sup>74</sup> Piven, F.F., *Keeping Down the Black Vote*, p. 170

<sup>75</sup> Piven, F.F., *Keeping Down the Black Vote*, p. 172



strengthening this requirement to include that identification be presented across the board, be photographic, or be government issued only.

Currently, the National Conference of State Legislatures categorizes voter identification requirements across two criteria. There is a distinction made between strict and non-strict legislation, in which case voters may not cast a ballot without showing ID (or they will be issued a provisional ballot). The second distinction is whether the state requires photographic identification or a form of non-photographic identification.<sup>76</sup>

Proponents of identification requirements argue that it protects against fraudulent election activities and that every eligible voter should have an appropriate form of ID. Whether it is government issued, photographic, or non-photographic, at least thirty-four of the fifty states agree that some form of identification is requisite to being allowed to cast a ballot.

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<sup>76</sup> National Conference of State Legislatures. (2014, March 11). *Voter Identification Requirements*. Retrieved from National Conference of State Legislatures: <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>

Current Voter Identification Requirements			
States that Request or Require <i>Photo ID</i>		States that Require ID (Photo Not Required)	
Strict Photo ID	Photo ID	Strict Non-Photo ID	Non-Strict Non-Photo ID
<i>In effect:</i>	<i>In effect:</i>	<i>In effect:</i>	<i>In effect:</i>
<b>Georgia</b>	Florida	Arizona	Alabama
<b>Indiana</b>	Hawaii	Ohio	Alaska
<b>Kansas</b>	Idaho	Virginia	Arkansas
<b>Tennessee</b>	Louisiana		Colorado
<b>Texas</b>	Michigan		Connecticut
	New Hampshire		Delaware
	South Dakota		Kentucky
<i>Not yet in effect:</i>			Missouri
			Montana
<b>Arkansas</b>	<i>Not yet in effect:</i>		North Dakota
<b>Mississippi</b>	Alabama		Oklahoma
<b>North Carolina</b>			Rhode Island
<b>Pennsylvania</b>			South Carolina
<b>Virginia</b>			Utah
<b>Wisconsin</b>			Washington

Figure 1: Current Voter Identification Requirements From the National Conference of State Legislatures. From National Conference of State Legislatures. (2014, March 11). Voter Identification Requirements. Retrieved from National Conference of State Legislatures: <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>

Opponents, like the plaintiffs in *Crawford v Marion County Election Board*<sup>77</sup>, argue that for those who do not have an approved form of ID, the voter ID laws become an undue burden that prevents them from freely exercising their right to vote.<sup>78</sup> The case argues that the cost of obtaining an ID amounts to a modern day poll tax. For example, some states charge fees for obtaining a government issued ID. In the states that administer free identification cards, the documentation needed to acquire the card may be difficult to procure. Coupled with the costs of

<sup>77</sup> *Crawford v Marion County Election Board*, 553 U.S. 181 (Supreme Court of the United States April 28, 2008).

<sup>78</sup> Davidson, C. (2009). The Historical Context of Voter Photo-ID Laws. *Political Science and Politics*, 42(1), p. 93.

traveling to the appropriate bureaus, repeat visits, time, and access to such bureaus, those without ID may forego the process of getting one.<sup>79</sup>

The Supreme Court upheld Indiana's strict voter identification restriction, which is estimated to have affected 43,000 of the state's otherwise eligible population.<sup>80</sup> A survey conducted by the Brennan Center for Justice in 2006 projected the elderly and African Americans to be most harmed by such laws. Similarly in Georgia, matching voter registration records and Department of Motor Vehicles history shows that African Americans, Hispanics, and the elderly are less likely to have state-issued identification than other demographics.<sup>81</sup>

Even with programs such as motor-voter, designed to increase voter registration and eligibility among at-risk populations, some socioeconomic and racial groups remain at a disadvantage. In fact, such programs only increase turnout among those already likely to vote.<sup>82</sup> Mycoff, Wilson, and Wilson suggest that this may be why many studies of voter identification show little evidence of a deterrent effect; changes in identification laws may only become evident to those already motivated to vote.<sup>83</sup>

Leading into the 2012 general election, the issue of voter identification gained increasing attention in the American media, perhaps precipitated by the sharp increase in states' efforts to create, regulate, or strengthen identification requirements. Table 1 and Figure 2 illustrate the

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<sup>79</sup> Hershey, M. R. (2009). What We Know about Voter-ID Laws, Registration, and Turnout. *Political Science and Politics*, 42(1), p. 87.

<sup>80</sup> Ibid.

<sup>81</sup> Gomez, B. T. (2008, April). Uneven Hurdles: The Effect of Voter identification Requirements on Voter Turnout, p. 6.

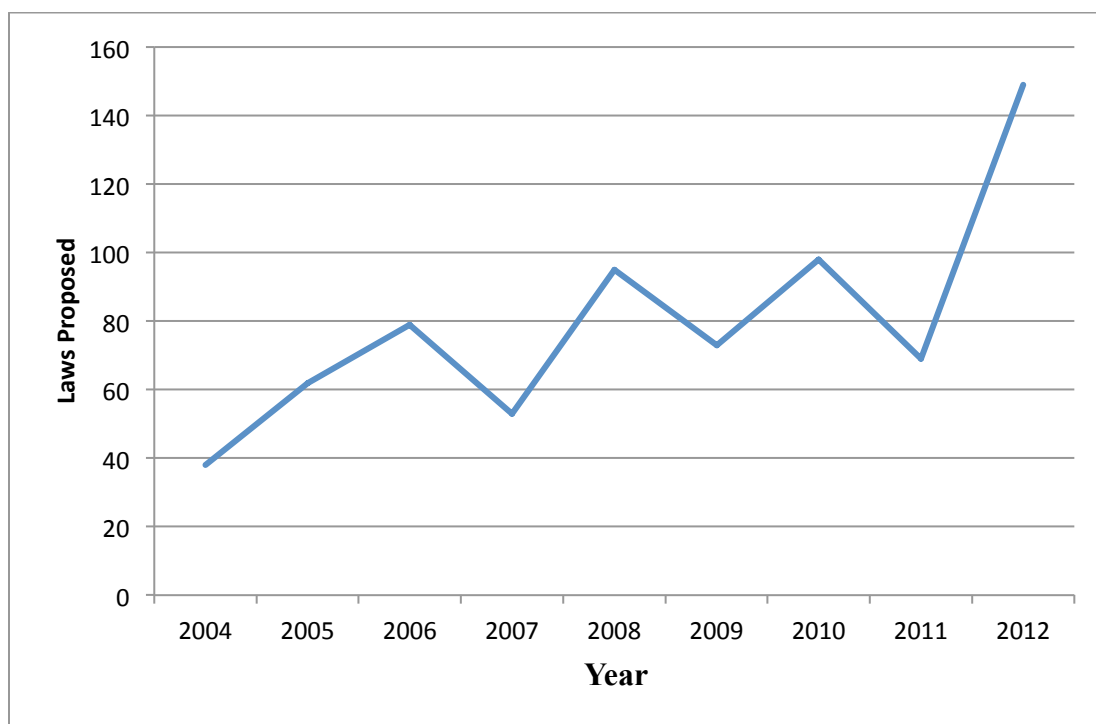
<sup>82</sup> Mycoff, J. D., Wagner, M. W., & Wilson, D. C. (2007, August). The Effect of Voter Identification Laws on Aggregate and Individual Level Turnout.

<sup>83</sup> Ibid, p. 6.

growth in the number of voter identification related bills introduced across all states from 2004 to 2012.

**Table 1: Voter Identification Laws Attempted between 2004-2012**

Year									Total
2004	2005	2006	2007	2008	2009	2010	2011	2012	2004-2012
38	62	79	53	95	73	98	69	149	716



**Figure 2: Voter Identification Laws Attempted between 2004-2012.** Includes legislation where a final decision was made in the form of adopted, enacted, failed, failed due to adjournment, or vetoed. Data derived from National Conference of State Legislatures. (2014, March 11). *Voter Identification Requirements*. Retrieved from National Conference of State Legislatures: <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>

Authors such as Piven et al suggest that increases in “voter integrity” initiatives occur around the times of competitive elections.<sup>84</sup> Of the seven hundred fourteen bills proposed

<sup>84</sup> Piven, F.F., *Keeping Down the Black Vote*, p. 164

between 2004 and 2012, fifty-nine of those were enacted, according to data collected from the National Conference for State Legislatures (NCSL). The type of bills proposed varied by state. In some cases legislators sought to expand the forms of identification accepted such as student or veteran ID. In 2012, Georgia, Tennessee and Wisconsin all failed to pass bills that would allow students to use their college IDs in lieu of government issued ID. In a few states, legislators proposed bills that would provide residents with free identification or allow them to file provisional ballots in case they did not have identification on Election Day. On the other hand many bills sought to create identification requirement in states without them, strengthen existing requirements by requiring photo identification, or limit acceptable forms of identification to only include government provided documents.

Compared to just thirty-eight bills in 2004, the increases in proposed bills coincide with increasing minority turnout at the polls. In 2004, 603% of eligible African Americans voted, rising to 652% in 2008, and while the 2012 numbers are not yet available, scholar Michael McDonald predicts the numbers to be similar.<sup>85</sup> The years of 2008 and 2012, preceding the election of America's first African American president, show some of the sharpest increases in identification regulations. A case that drew national attention occurred just a couple of months before the 2012 general election. A Pennsylvania judge granted an injunction against the application of the state's new photo identification requirement that would have affected the

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<sup>85</sup> Weiner, R. (2013, April 29). Black voters turned out at higher rate than white voters in 2012 and 2008. *The Washington Post*, p. 1.

upcoming election because the state had failed to provide ready access to photographic identification for those who did not have them.<sup>86</sup>

This flurry of activity surrounding elections laws is what surveyors have feared. Consequently, much of the scrutiny of election laws has increased leading up to and following the Supreme Court's treatment of *Shelby County v Holder*.<sup>87</sup> The justices, in a 5-4 decision, held that Section 4 of the Voting Rights act was unconstitutional because the preclearance formula was considered to be outdated. Civil rights leaders such as John Lewis lamented the decision, saying that it, "stuck a dagger into the heart of the Voting Rights Act," essentially making the Act more difficult to enforce. Although it is too soon to see the effects following the Supreme Court's ruling in *Shelby v Holder*, there has been considerable research conducted leading up to the decision. The following literature review focuses on the study of voter identification laws, our primary concern, summarizing research completed prior to 2012.

### *Literature Review*

Authors Vercellotti and Anderson<sup>88</sup> provide some of the earliest information concerning the effects of voter identification. Their 2006 article is a general assessment of identification restrictions on the aggregate American population as well as an analysis of individual-level data. They arranged all fifty states along a continuum of least restrictive requirements (stating one's name) to most restrictive (providing photo identification) and measured the variables against

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<sup>86</sup> CNN Wire Staff. (2012, October 2). *Judge blocks Pennsylvania voter ID law for November election*. Retrieved from CNN Politics:  
<http://www.cnn.com/2012/10/02/politics/pennsylvania-voter-id/index.html?iref=allsearch>

<sup>87</sup> *Shelby County v. Holder*, 570 U.S. \_\_\_ (The United States Supreme Court 2013).

<sup>88</sup> Vercellotti, T., & Anderson, D. (2006, September 3). Protecting the franchise, or restricting it? The effects of voter identification requirements on turnout.

aggregate turnout. At the individual level, they also gauged turnout across race, ethnicity, age, income, education, and political factors such as the closeness of the race. Their results show a statistically significant negative relationship between the degree of restrictiveness of the requirement and whether a person voted in 2004; the stricter the legislation the less likely a person was to vote. In terms of demographic indicators, African Americans were more likely than white voters to report that they voted.

In 2008, Alvarez, Bailey, and Katz<sup>89</sup> studied voter turnout at the state level following the implementation of the “Help America Vote Act” in 2002. They also take care to survey individuals to assess the impact across allegedly targeted demographics, and borrowing from Vercellotti and Anderson, they use a scale that measures identification requirements from the least strict form (stating his/her name) to the strictest form (presenting photo identification). The authors’ methodology differs from previous researchers’ because they implement a multi-level study across a longer period of time. The results from their analysis of the 2000 and 2004 presidential elections and the 2002 and 2006 midterm elections show that there is no significant correlation between voter identification requirements and the aggregate turnout of state populations. However, by surveying individuals they find that combining strict identification requirements and other identification prerequisites such as matching signatures on registration documents has some deterrent effect. A reduction in voting occurs across less educated and lower-income voters, not just minorities as others suggest.

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<sup>89</sup> Alvarez, R. M., Bailey, D., & Katz, J. N. (2008, January 1). The Effect of Voter Identification Laws on Turnout. *California Institute of Technology Social Science Working Paper No. 1267R* .

Gomez's<sup>90</sup> models resemble Friedman's distinction between partisan and structural disenfranchisement. *Uneven Hurdles* uses 2000 and 2004 presidential election results to revisit studies of Indiana's contested voter identification requirements. Rather than assess voter turnout at the aggregate level, Gomez breaks down turnout by county and crosses his results with the occurrence of African American, Latino, and low-income populations. He also takes a look at partisan support of legislation that sets identification requirements. Gomez finds that identification laws do not seriously affect voter turnout. There is, however, some negative correlation between non-photo voter identification requirements and Hispanics and photo identification requirements and African Americans, with the likelihood of voting decreasing with the presence of such a restriction.

Stephen Ansolabehere<sup>91</sup> also utilizes a survey approach to investigate voters' experiences following the 2006 general election and the 2008 primary elections. Among the questions Ansolabehere posed were whether the respondent had trouble registering to vote or obtaining a ballot and whether they were asked to show photographic identification at the polls. A follow up interview of 2006 respondents conducted a year later gauged whether the experience discouraged them from voting in later elections. The survey covered approximately 40,500 voters. Overall, 49% of respondents were asked to show ID in the 2006 elections that rose to 56% in 2008. There is great variation between states, especially between states that do and do not have identification requirements. In states with voter ID requirements almost 80% of all voters were asked to show identification compared to less than 20% in states with no such requirements. In addition, of the

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<sup>90</sup> Gomez B.T., *Uneven Hurdles*.

<sup>91</sup> Ansolabehere, S. (2009, January). Effects of Identification Requirements on Voting: Evidence from the Experiences of Voters on Election Day. *42*(1), 127-130.



1000 voters surveyed after the initial screening, only 7 reported that the requirements may have dissuaded them from voting in the future. While this study does not deal specifically with race it gives an overview of general attitudes toward identification requirements and its potential deterrent effects.

Around the same period, Mycoff Wagner, and Wilson<sup>92</sup> examine the issue and propose that socio-demographic and political motivation are more telling on voter turnout than voter identification restrictions. It supports many of the previous studies' assertions that voter identification legislation has little significance on aggregate turnout. Their 2009 paper supports the findings of their 2007 study on voter identification as a risk to turnout. Unlike many surveyors of the issue, they predict that strict restrictions will not have an effect on voter turnout. Those who would be initially motivated to vote will not find requirements too costly to forego voting on identification reasons alone. Rather, the authors claim that the presence of socioeconomic factors and political motivations such as high profile candidates or controversial social issues will have the greatest effect on turnout. Using presidential elections and mid-term elections between 2000 and 2006, they measure turnout across sex, race, age, region, and socioeconomic status variables, party identification, and level of political interest against aggregate turnout by state. The intensity of identification requirements had negligible effects but socio-demographic indicators followed the predicted outcomes, negatively correlating between African Americans and turnout.

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<sup>92</sup> Mycoff, J. D., Wagner, M. W., & Wilson, D. C. (2007, August). The Effect of Voter Identification Laws on Aggregate and Individual Level Turnout.

Recently, Daniel Biggers and Michael Hanmer<sup>93</sup> have tackled increased attempts at voter identification laws as occurring in times where there is increased likelihood of a shift to Republican political control. They propose that the GOP increases efforts to limit the poor and minorities by enacting voter ID laws before elections that may cause a change in the control of government. The authors shape the issue as a political maneuver but also reference the attempt to undermine the Democrat's electorate by targeting a few of their core demographics. One of their independent variables gauges the size of the African American population as a measure of how likely voter ID legislation will be introduced. They find that the likelihood of changing the partisan control of government and demographic variables like race make a little difference in the adoption of voter identification laws but not at empirically significant levels.

Even more recently, Bentele and O'Brien<sup>94</sup> have taken up the issue of voter suppression tactics. In *Jim Crow 2.0*, the authors examine restrictive legislation as a function of partisan politics and race. They believe that the wealth of new legislation introduced in recent years is an attempt to demobilize minority voters. In contrast to the studies previously mentioned, Bentele and O'Brien work with much more recent data taken from 2006-2011 databases. While their work focuses primarily on political factors determining demobilization instead of voter identification, it provides much background for the connection between historical attempts to suppress minority voters and current methods alleged to be voter disenfranchisement.

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<sup>93</sup> Biggers, D. R., & Hanmer, M. J. (2012, April). When Voting Gets Harder: Understanding the Adoption of Voter Identification Laws in the American States.

<sup>94</sup> Bentele, K., & O'Brien, E. (n.d.). *Jim Crow 2.0?: Why States Consider and Adopt Restrictive Voter Access Policies. Perspectives on Politics*. Boston: University of Massachusetts Boston.

## Methodology

A cursory glance at the data on attempts of voter identification fraud will show that it is not a sound justification for the rapid increase in voter identification legislation. Those who oppose such legislation argue that the laws are a veiled attempt to dilute the power of minority populations. Though the issue is often framed along these racial lines past research fails to focus on whether that is actually the case. Such research also tends to have a broad political focus, such as the Mycoff, Wagner, and Wilson study, in which race is only noted in passing. In order to make claims that voter identification laws indeed amount to a modern day poll tax, we must take care to establish whether or not voter identification measures pose an actual threat to minority voters in terms of reducing the likelihood of their vote being counted.

In this analysis, I will attempt to address some of the gaps in reasoning by those who suggest that voter identification laws target minorities, particularly African Americans. Specifically, we will attend to the question of whether the adoption of restrictive voter identification legislation potentially decreases African American participation in general elections. Such an analysis will shed light on how much of voter disenfranchisement politics has to do with race rather than being a broad strategy to dismantle all of the groups that form the democrat electorate.

In the first half of the analysis, I sample every state that has enacted a restrictive form of voter identification laws according to data compiled from the National Conference of State Legislatures. The list includes twenty-four states that enacted voter identification laws that limit voters between 2004 and 2012. Such limitations include whether the law eliminated alternate forms of identification, mandated photographic identification, or denied access to free identification. For each of the selected states, using the data provided by the United States Election Assistance Commission's (EAC) post-election survey, I obtain the percentage of

provisional ballots cast that were ultimately rejected because the individual failed to provide proper identification. The list includes several states that met the former preclearance formula established by the Department of Justice and non-preclearance states for comparison. Table 2 shows the years in which restrictive identification measures were adopted and the subsequent numbers of provisional ballots rejected in the following election because of improper identification.

**Table 2: Restrictive Voter Identification Requirements Enacted and Percent of Ballots Rejected for Insufficient Identification**

	Number of Laws Passed Between 2004-2011	2004	2006	2008	2010	2012
<b>AL</b>	<b>1</b>	<b>N/A</b>	<b>0</b>	<b>N/A</b>	<b>0</b>	<b>N/A *</b>
<b>AZ</b>	<b>1</b>	<b>N/A</b>	<b>9.3</b>	<b>5.7</b>	<b>5.1*</b>	<b>4</b>
<b>GA</b>	<b>1</b>	<b>N/A</b>	<b>1.5*</b>	<b>11.7</b>	<b>N/A</b>	<b>N/A</b>
<b>ID</b>	1	N/A	N/A	N/A	N/A*	N/A
<b>IN</b>	3	N/A	0*	14.2	12*	11.3*
<b>KS</b>	1	N/A	4	9.3	1.3	3.9*
<b>LA</b>	<b>1</b>	<b>N/A</b>	<b>0*</b>	<b>0.5</b>	<b>0</b>	<b>0</b>
<b>MI</b>	1	N/A	7.6	13.5	4.9	47.7*
<b>MS</b>	<b>1</b>	<b>N/A</b>	<b>0</b>	<b>0.1</b>	<b>0</b>	<b>0*</b>
<b>MO</b>	3	N/A	0*	0	0.2*	0*
<b>NV</b>	1	N/A	4.4	1.4	0.1	0.3*
<b>NH</b>	1	N/A	N/A	N/A	0	N/A*
<b>NM</b>	1	N/A	4.3	0.1*	0	0
<b>ND</b>	1	N/A	N/A*	N/A	N/A	N/A

<b>OH</b>	1	N/A	0.3*	5	3.7	11
<b>OK</b>	1	N/A	0	01	0*	4.6
<b>PA</b>	1	N/A	0	0	0	N/A*
<b>RI</b>	2	N/A	0	0	0.3	0.9*
<b>SC</b>	<b>1</b>	<b>N/A</b>	<b>3.8</b>	<b>2</b>	<b>1.8</b>	<b>1.3*</b>
<b>SD</b>	1	N/A	0*	0.6	0	0.6
<b>TN</b>	2	N/A	0.6	0*	0	7.6*
<b>TX</b>	<b>2</b>	<b>N/A</b>	<b>0.5*</b>	<b>1.2</b>	<b>0.9</b>	<b>0.2*</b>
<b>UT</b>	4	N/A	6.7*	3.1	20.6**	11.7
<b>VA</b>	<b>3</b>	<b>N/A</b>	<b>0</b>	<b>0.1</b>	<b>0.2</b>	<b>0.2**</b>
<b>WA</b>	1	N/A	0*	0.2	0	0.4
<b>WI</b>	2	N/A	0*	0	0	N/A*

1. Bold type denotes states formerly covered by Section 4 of the Voting Rights Act of 1965's coverage formula
2. A (\*) marks the year in which a form of restrictive voter identification law was enacted Multiple (\*) notes multiple legislation passed that year
3. This table is limited where enacted laws were challenged in court, delaying their implementation

Using the provisional ballot data between 2004 and 2012 provides several advantages. Though the EAC did not conduct their survey in 2004, there is a four-year gap between the passage of HAVA and the 2006 general election for which the EAC is able to provide the relevant data. States have had enough time to comply with the legislation and pass the first wave of voter identification requirements in time for the general election. By using the 2004 through 2012 time period we can evaluate the potential effects before, leading up to, and after the election of a black president. Data prior to 2006 are especially useful because they are well before any sign of a black presidential nominee so we can gauge the effects of identification legislation before an escalation of restrictive identification proposals. It also accounts for the potential effect of identification laws on African American turnout before a substantial increase

in their aggregate turnout in the past two presidential elections, which many attribute to the novelty or popularity of a black candidate. Figure 3 illustrates turnout by race measured by those who voted as a percentage of the eligible demographic.

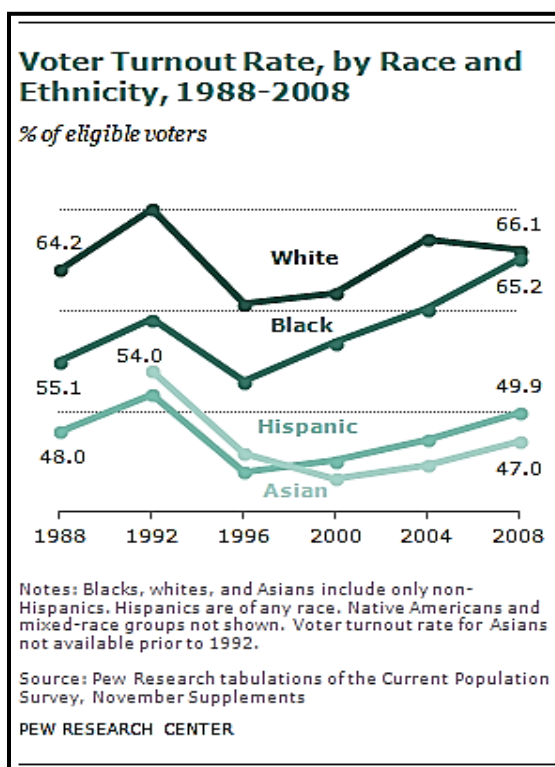


Figure 3: From Taylor, P. (2012, December 26). *The Growing Electoral Clout of Blacks Is Driven by Turnout, Not Demographics*. *Pew Social Research and Demographic Trends*. Retrieved from <http://www.pewsocialtrends.org/2012/12/26/the-growing-electoral-clout-of-blacks-is-driven-by-turnout-not-demographics/>

The use of rejected provisional ballots allows us to weed out several confounding factors. As previously mentioned, African American turnout has increased over the past several years so simply measuring the adoption of restrictive legislation against national turnout will yield little insight into the effects of the laws if there are any. Using the provisional ballot data provided by the EAC yields the most accurate reflection of the legislation on those who have their votes rejected solely because of identification measures at a state-by-state level. It avoids the subjectivity of the survey response method implemented by Ansolabehere and directly addresses the form of legislation predicted to impact voters. If the provisional ballots rejected because of

identification measure has any bearing on aggregate turnout, and such turnout is representative of turnout by demographics, then we can see what the potential effect might be on the African American population.

However, this is a large assumption to make. To supplement the rejected provisional ballot assessment, I take a look at case of Michigan, which rejected the most provisional ballots of all states between 2006 and 2012. In the last general election of 2012, after the passage of SB 751 which required residents to present photo identification in order to vote early, 47.7% of all rejected provisional ballots were due to improper identification. The additional analysis will seek to determine if the distribution of provisional ballots across Michigan's counties overlaps with the occurrence of districts with a sizeable African American population. Using a multivariate regression I will also measure provisional ballot distributions in Michigan as a function of income (percent of population below the poverty level), education (percent of 25 or older population with a high school degree), and the county's party affiliation (democrat or republican) for comparison. Additional regression models use the same independent variables measured against the number of *rejected* provisional ballots by county.<sup>95</sup>

## Results

Table 2 shows fourteen states, in which slightly more than half passed identification legislation, where the percentage of ballots ultimately rejected for failure to provide identification increased in the same year or in the year after the implementation of voter identification laws. Georgia, Indiana, Louisiana, Michigan, Montana, Nevada, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Texas, Utah, and Washington all saw increases in

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<sup>95</sup> To reduce the skew of the data from the present outliers the models use the natural logarithms of the provisional ballot and rejected provisional ballot cases.

rejected provisional ballots in the same year or the year immediately after enacting of restrictive legislation. The most drastic change occurred between 2010 and 2012 in the state of Michigan, which passed the law requiring photo-identification for early voters. Rejected ballots grew more than nine times the level of rejected ballots in the previous general election.

In the two states that passed multiple restrictive laws in the same year, the data shows two very different stories. Utah passed HB254 and SB18 in 2010 that limited acceptable forms of identification to Utah government issued IDs, military ID, Bureau of Indian Affairs card, or a tribal treaty card. Between 2008 and 2010 rejected ballots rose from 3.1% to 20.6% of provisional ballots rejected because of identification. Virginia enacted bill HB9 which allowed those without identification to sign sworn statements of registration in order to cast a provisional ballot and the companion bill attached by the state senate, SB1, struck down that same provision. Even though the legislation directly impacted the ability to cast provisional ballots in lieu of showing identification, the percent of rejected ballots remained steady at 0.2%. A regression analysis of the Table 2 data shows that the results are not significant; the passing of a law in the year of the general election has relatively no effect on the percentage of provisional ballots rejected due to insufficient identification.<sup>96</sup> This may be due to the legal complications surrounding the adoption of restrictive identification laws such as court challenges, delays in implementation, and the degree of public awareness of the new legislation.

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<sup>96</sup> All 50 states were divided into states that did pass restrictive identification measures and states that did not pass identification laws for the years 2006, 2008, 2010, and 2012 (2004 data not available). I measured the percentage of provisional ballots rejected due to insufficient identification as a function of whether there was a restrictive law passed in the year of the election and whether the Republican Party had complete control (GOP governor, GOP dominated Senate, and GOP dominated House). For each year none of the data showed significant findings, failing two-tailed tests at the level  $p < 0.5$ .



The examination of Michigan's 2012 election results gives deeper insight into the relationship between African American population size and the administration of provisional ballots as a measurement of voter deterrence. If voter identification laws deter voters we should see a significant relationship between the size of the African American population in each Michigan county and the amount of provisional ballots casts due to lack of identification. The analysis of Michigan's provisional ballot distribution for lack of identification uses a combination of data collected by the EAC<sup>97</sup> and the Michigan Department of State.<sup>98</sup> The first set of models listed in Table 3 test the raw numbers of provisional ballots administered for insufficient identification (Provisional Ballots by County) and rejected provisional ballots administered for insufficient identification (Rejected Provisional Ballots by County) as a function of the size of the African American population measured as a percentage of the total county population (African American Population). Each model controls for the percentage of the population over twenty-five years old with a high school diploma (Education), the percentage of residents living below the poverty level (Poverty Level), and the counties' party leanings, Democrat (1) or Republican (0), as determined by their share of votes for either presidential candidate in the 2012 election (2012 County Party Affiliation). Model 1 shows the relationship between the independent variables and the total number of provisional ballots administered during the 2012 general election. Of the independent variables, the size of the African American population and education level are shown to significantly affect provisional ballot distribution by

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<sup>97</sup> The United States Election Assistance Commission. (2013, September). *Election Administration and Voting Survey*. Retrieved from Election Assistance Commission: [http://www.eac.gov/research/election\\_administration\\_and\\_voting\\_survey.aspx](http://www.eac.gov/research/election_administration_and_voting_survey.aspx)

<sup>98</sup> State of Michigan. (2012). *County Provisional Ballot Report*. Retrieved from Department of State: [https://www.michigan.gov/documents/sos/Prov\\_Bal\\_Rpt\\_11-12\\_General\\_New\\_410292\\_7.pdf](https://www.michigan.gov/documents/sos/Prov_Bal_Rpt_11-12_General_New_410292_7.pdf)

county at a level of  $p \leq .05$ . Furthermore, the size of the African American population is effectual at the  $p \leq .01$  level as well. Using the number of rejected provisional ballots as the dependent variable, Model 2 shows that only the size of the African American population remains significant at the  $p \leq .01$  level. With a slight modification, Model 3 shows the effect of the African American population variable with an additional control for Provisional Ballots Issued by County. Even with controlling for total provisional ballot distribution, the size of the African American population weighs on the frequency of Rejected Provisional Ballots.

**Table 3: Provisional Ballot Distributions and Provisional Ballot Rejections as a Function of African American Population Size**

	Model 1: Provisional Ballots by County		Model 2: Rejected Provisional Ballots by County		Model 3: Rejected Provisional Ballots by County	
	$\beta$	Sig	$\beta$	Sig	$\beta$	Sig
<b>African American Population</b>	.211	.006**	.111	.002**	.110	.004**
<b>Education</b>	.316	.035*	.096	.176	.095	.196
<b>Poverty Level</b>	-.003	.980	.054	.317	.054	.320
<b>2012 County Party Affiliation</b>	.174	.876	.901	.092	.901	.094
<b>Total Provisional Ballots Issued for Insufficient ID</b>					.003	.954
<b>Constant</b>	-2.6262	.065	-13885	.041	-13803	.049
	$R^2 = .193$ , $F(4,78) = 4.662$ , $p < .01$		$R^2 = .302$ , $F(4,78) = 8.453$ , $p < .01$		$R^2 = .302$ , $F(5,77) = 6.667$ , $p < .01$	
<b>Note: Analysis conducted using natural logarithm of dependent variable to adjust for skewness</b>						
<b>Significance: *<math>p &lt; .05</math> **<math>p &lt; .01</math> (two-tailed tests)</b>						
<b>Source: 2012 Election Administration &amp; Voting Survey Report and Michigan Department of State 2012 Provisional Ballot Report by County</b>						

The second set of models accounts for three additional dependent variables, which stress Provisional Ballots Issued and Rejected Provisional Ballots as a percentage of total ballots cast for either presidential candidate in 2012 (Total Ballots). We also take a look at Rejected Provisional Ballots as a proportion of Provisional Ballots as a consequence of African American Population size.

**Table 4: Modified Provisional Ballot Distribution and Provisional Ballot Rejection Proportions as a Function of African American Population Size**

	<b>Model 4: Rejected Provisional Ballots as Percentage of Provisional Ballots by County</b>		<b>Model 5: Rejected Provisional Ballots as Percentage of Total Ballots Cast by County</b>		<b>Model 6: Provisional Ballots as a Percentage of Total Ballots Cast by County</b>	
	$\beta$	Sig	$\beta$	Sig	$\beta$	Sig
<b>African American Population</b>	.006	.000**	.011	.003*	.015	.053*
<b>Education</b>	.001	.664	.011	.123	.034	.030*
<b>Poverty Level</b>	.002	.272	.003	.617	.003	.777
<b>2012 County Party Affiliation</b>	-.023	.090	.122	.019*	.010	.934
<b>Total Provisional Ballots Issued for Insufficient ID</b>	-.001	.697	.041	.418		
<b>Constant</b>	-102	561	-1484	028	-2882	052
	R <sup>2</sup> =.373, F (5,77)=9.154, p<.01		R <sup>2</sup> =.377, F (5,77)=9.334, p<.01		R <sup>2</sup> =.133, F (4,78)=2.995, p<.01	
<b>Note: Analysis conducted using natural logarithm of dependent variable to adjust for skewness</b>						
<b>Significance: *p&lt;05 **p&lt;01 (two-tailed tests); ^ p&lt;05 (one- tailed test)</b>						
<b>Source: 2012 Election Administration &amp; Voting Survey Report and Michigan Department of State 2012 Provisional Ballot Report by County</b>						

Throughout the shift from raw scores to provisional and rejected provisional ballots as a proportion of total ballots and provisional ballots casts, respectively, the size of the African American populations remains consistently significant even at the  $p<.01$  level. The only exception to the findings is when using the dependent variable of Provisional Ballots as a percentage of Total Ballots. In Model 6, the African American misses the mark of significance, just short of  $p<.05$  level for the kind of two-tailed test utilized ( $p= .053$ ). However, as we expect the relationship between African American Population size and the dependent variable to be positive, a one-tailed test of significance is appropriate. With a one-tailed P-value of 0.0265, we still have a significant test at better than the 0.05 value, although a less stringent one-tailed test than the two tailed ones we had been using.

## Discussion

The model clearly suggests a relationship between the racial composition of the counties and the occurrence of provisional ballot usage in Michigan. The larger the African American population, the more likely voters are assigned provisional ballots because of failure to provide proper identification. It is also more likely that a percentage of these ballots are ultimately rejected. In no case is this more apparent than that of Wayne County. Blacks make up 40.1% of Wayne County which had the second most provisional ballots issued in 2012 of all Michigan counties, rejecting 690 of the 1615 provisional ballots casts due to insufficient identification.

Though this study suggests that voter identification has some effect on minority voting, it is hardly the smoking gun of voter suppression. Many states do not keep their own records of voter identification related barriers to voting nor does the EAC have full records available from their survey of all states. In order to extrapolate from this study we need a more comprehensive look at the way voter identification laws affect voters across all states. This especially true in states under more intense scrutiny such as those formerly covered by the preclearance formula or battle ground states like Ohio, Pennsylvania, and Florida.

There are some other challenges to establishing voter identification legislation adoption as a form of voter suppression. While the VRA does not require that plaintiffs prove intent to discriminate, they must show that an equal opportunity to vote has been denied.<sup>99</sup> At this time there is limited data with which to support these claims. As previously mentioned, EAC data is limited to states which keep record of identification issues at the polls. Even then, it is difficult to ascertain which demographics are most affected by identification requirements. Are minorities more likely to be offered provisional ballots than whites? Do poll-site officials make exceptions

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<sup>99</sup> Overton, S. (2007). Voter Identification. *Michigan Law Review*, p. 671.

to identification requirements for some races more than others? Are voters turning out to vote at disproportionate rates by county? All of these factors weigh in as this study seeks to examine voter suppression tactics just as they are relevant to the courts, legislative hearings, and all other parties attempting to justify or challenge voter identification laws.

While availability of data is a dominating issue, the presence of intersecting factors is also of concern. Though the model presented in this paper shows no significant findings regarding income, party power, and a weak association between education and the dependent variables, other authors suggest that such variables supersede or intersect with race as measure of voter suppression. Alvarez, Bailey, and Katz find little support for voter identification as voter suppression at the aggregate level, but do think strict ID laws deter voting at an individual level.<sup>100</sup> However, the authors claim that there is little evidence in support of racially discriminatory claims but there is some negative relationship between lower levels of education and low-income voters. Mycoff, Wagner, and Wilson write,

The early evidence paints an incomplete picture, consisting of some qualified claims that states with strict voter identification laws negatively, albeit marginally, affect turnout, while other reports find that these effects are too small to be of practical concern<sup>101</sup>

Socioeconomic indicators and race overlap so often that it is ill advised to discount the former from consideration.

As a remedy to the controversy surrounding voter ID laws, Spencer Overton provides many alternatives to strict voter identification laws that attempts to reconcile state interests' with the critics of the requirements. Overton suggest that states provide free photo identification,

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<sup>100</sup> Alvarez, R. M., Bailey, D., & Katz, J. N., *The Effect of Voter Identification Laws on Turnout*, p. 21

<sup>101</sup> Mycoff, J. D., Wagner, M. W., & Wilson, D. C., *The Empirical Effects of Voter-ID Laws*, p. 121

expanded photo identification distribution through motor voter initiatives or increased photo-identification offices, election day registration, opportunities to return with photo ID, alternative for voters without identification, increasing use of non-photo identification, requiring identification at registration rather than the polls, and signature comparison among a host of resolutions.<sup>102</sup>

But even Overton's suggestions have been challenged. Marjorie Randon Hershey suggests that even when the costs of voting are reduced, voting does not necessarily increase. Motor voter laws in Colorado mostly affected those with moderate education levels. Voting by mail increased voting among whites, the elderly, and those with higher income.<sup>103</sup> Hershey also states that the disproportionate effect of identification laws has less to do with the adoption of the legislation and more to do with the behavior election administration officials, which varies state-by-state.<sup>104</sup> Nevertheless, more data and research is necessary in the coming years to establish claims of voter disenfranchisement especially in the context of racial politics. Many are skeptical to claims of a colorblind America, particularly in the wake of many racially charged current events. Though we are tempted to bundle electoral politics with claims of racial discrimination across the criminal justice, housing, education, and employment systems, such claims should be made with caution. As the country continues to evolve, we must continue to monitor the progress of a "post-racial" America.

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<sup>102</sup> Overton, S., *Voter Identification*, p. 676-680

<sup>103</sup> Hershey, M. R., *What We Know about Voter-ID Laws, Registration, and Turnout*, p.89

<sup>104</sup> *Ibid.*

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## Works Cited

- Alexander, M. (2012). *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: New Press.
- Allen v. State Board of Elections, 393 U.S. 544 (The United States Supreme Court 1969).
- Alvarez, R. M., Bailey, D., & Katz, J. N. (2008, January 1). The Effect of Voter Identification Laws on Turnout. *California Institute of Technology Social Science Working Paper No. 1267R*.
- Ansolabehere, S. (2009). Effects of Identification Requirements on Voting: Evidence from the Experiences of Voters on Election Day. *42* (1), 127-130.
- Behrens, A., Uggen, C., & Manza, J. (2003). Ballot Manipulation and the "Menace of Negro Domination": Racial Threat and Felon Disenfranchisement in the United States, 1850-2002. *American Journal Of Sociology*, *109* (3), 559-605.
- Bentele, K., & O'Brien, E. (n.d.). Jim Crow 2.0?: Why States Consider and Adopt Restrictive Voter Access Policies. *Perspectives on Politics*. Boston: University of Massachusetts Boston.
- Berman, A. (2012, August 20). Ohio GOP Admits Early Voting Cutbacks Are Racially Motivated. *The Nation*, p. 1.
- Biggers, D. R., & Hanmer, M. J. (2012, April). When Voting Gets Harder: Understanding the Adoption of Voter Identification Laws in the American States.
- Blades, M. (2013, September 3). North Carolina Students Fight Back Against Voter Suppression Law. *Daily Kos*, p. 1.
- Bonilla-Silva, E. (1962). *Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in America*. Lanham: Rowman and Littlefield Publishers, Inc.
- Carson, C. (2012, August 12). Election Fraud in America. News21.
- Chin, G. J. (2004). The "Voting Rights Act of 1867": The Constitutionality of Federal Regulation of Suffrage During Reconstruction. *North Carolina Law Review*, *82*, 1581-1608.
- CNN Wire Staff. (2012, October 2). *Judge blocks Pennsylvania voter ID law for November election*. Retrieved from CNN Politics: <http://www.cnn.com/2012/10/02/politics/pennsylvania-voter-id/index.html?iref=allsearch>
- Cratty, C. (2012, July 26). *Republicans slam Justice Department on voter ID moves*. Retrieved from CNN Politics: <http://www.cnn.com/2012/07/26/politics/house-voter-id-laws/index.html?iref=allsearch>
- Crawford v Marion County Election Board, 553 U.S. 181 (Supreme Court of the United States April 28, 2008).
- Damron, D., & Powers, S. (2012, December 29). Researcher: Long lines at polls caused 49,000 not to vote. *Orlando Sentinel*, p. 2.
- Davidson, C. (2009). The Historical Context of Voter Photo-ID Laws. *Political Science and Politics*, *42* (1), 93-96.



- Evans, D., Maragh, C., & Porter, J. (2014). What do we Know About NYC's Stop and Frisk Program? A Spatial and Statistical Analysis. *Advances in Social Sciences Research Journal* , 1 (2), 129-144.
- File, T. (2013, May 8). *Blacks Voted at a Higher Rate than Whites in 2012 Election — A First, Census Bureau Reports*. Retrieved from United States Census Bureau: <http://www.census.gov/newsroom/releases/archives/voting/cb13-84.html>
- Friedman, A. K. (2005, November). Voter Disenfranchisement and Policy toward Election Reforms. *Review of Policy Research* , 22 (6), pp. 787-810.
- Gerteis, L. S. (1973). *From Contraband to Freedman: Federal Policy Toward Southern Blacks, 1861-1865*. Greenwood Press, Inc.
- Gomez, B. T. (2008, April). Uneven Hurdles: The Effect of Voter identification Requirements on Voter Turnout. 1-29.
- Gomillion v. Lightfoot, 364 U.S. 339 (The United States Supreme Court 1960).
- Goodell, W. (1853). *The American Slave Code in Theory and Practice: Its Distinctive Features Shown By Its Statutes, Judicial Decisions, and Illustrative Facts*. New York: American and Foreign Anti-Slavery Society.
- Grofman, B., & Davidson, C. (1992). *Controversies in Minority Voting: The Voting Rights Act in Perspective*. Washington, D.C.: The Brookings Institution.
- Herberman, E. J., & Glaze, L. E. (2013). *Correctional Populations in the United States, 2012*. Washington: Bureau of Justice Statistics.
- Hershey, M. R. (2009). What We Know about Voter-ID Laws, Registration, and Turnout. *Political Science and Politics* , 42 (1), 87-91.
- Hutchinson, E. O. (2012, June 4). GOP Steps Up Bogus War on Voter Fraud. *The Huffington Post* , p. 1.
- Kopan, T. (2013, August 22). *Colin Powell slams North Carolina voting law*. Retrieved from Politico: <http://www.politico.com/story/2013/08/colin-powell-north-carolina-voting-law-95813.html>
- Kousser, J. M. (1999). *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction*. Chapel Hill: The University of North Carolina Press.
- Krikorian, M. (2010, March 9). 'In the Eyes of Government, We Are Just One Race Here. It Is American.' *National Review Online* .
- Lawson, S. F. (1999). *Black Ballots: Voting Rights in the South, 1944-1969*. Lanham: Lexington Books.
- Miller v. Johnson, 515 U.S. 900 (The United States Supreme Court 1995).
- Mycoff, J. D., Wagner, M. W., & Wilson, D. C. (2007, August). The Effect of Voter Identification Laws on Aggregate and Individual Level Turnout.
- Mycoff, J. D., Wagner, M. W., & Wilson, D. C. (2009). The Empirical Effects of Voter-ID Laws: Present or Absent? *Political Science and Politics* , 42 (1), 121-126.
- National Conference of State Legislatures. (2014). *Election Reform Legislation Database*. Retrieved from National Conference of State Legislatures:

- <http://www.ncsl.org/research/elections-and-campaigns/2011-2013-elections-legislation-database.aspx>, <http://www.ncsl.org/research/elections-and-campaigns/2001-2010-database-of-election-reform-legislation.aspx>
- National Conference of State Legislatures. (2014, February 18). *Felon Voting Rights*. Retrieved from National Conference of State Legislatures: <http://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>
- National Conference of State Legislatures. (2014, March 11). *Voter Identification Requirements*. Retrieved from National Conference of State Legislatures: <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>
- Orfield , G., & Eaton, S. (1996). *Dismantling Desegregation: The Quiet Reversal of Brown V. Board of Education*. New York: W.W. Norton & Company, Inc.
- Overton, S. (2007). Voter Identification. *Michigan Law Review* , 631-682.
- Pessen, E. (1980). How Different from Each Other Were the Antebellum North and South? *The American Historical Review* , 85 (5), 1119-1149.
- Piven, F. F., Minnite, L. C., & Groarke, M. (2009). *Keeping Down the Black Vote: Race And Demobilization of American Voters*. New York City: New York Press.
- Quigley, M., Stapleton, C., Kam, D., & Lantigua, J. (2012, November 25). Former Florida GOP leaders say voter suppression was reason they pushed new election law. *The Palm Beach Post* . Palm Beach.
- Racial Disparity*. (n.d.). Retrieved from Sentencing Project: <http://www.sentencingproject.org/template/page.cfm?id=122>
- Reynolds v. Sims, 377 U.S. 533 (The United States Supreme Court 1964).
- Richardson v. Ramirez, 418 U.S. 24 (Supreme Court of the United States June 24, 1974).
- Rowe, M. (2008). Micro-affirmations and Micro-inequities. *Journal of the International Ombudsman* , 1 (1).
- Shaw v. Reno, 509 U.S. 630 (The United States Supreme Court 1993).
- Shelby County v. Holder, 570 U.S. \_\_ (The United States Supreme Court 2013).
- Siegel-Hawley, G., Ayscue, J., Kuscera, J., & Orfield, G. (2013, March 13). Miles to Go: A Report on School Segregation in Virginia. The Civil Rights Project.
- State of Michigan. (2012). *County Provisional Ballot Report* . Retrieved from Department of State: [https://www.michigan.gov/documents/sos/Prov\\_Bal\\_Rpt\\_11-12\\_General\\_New\\_410292\\_7.pdf](https://www.michigan.gov/documents/sos/Prov_Bal_Rpt_11-12_General_New_410292_7.pdf)
- Taylor, P. (2012, December 26). The Growing Electoral Clout of Blacks Is Driven by Turnout, Not Demographics. *Pew Social Research and Demographic Trends* .
- The United States Department of Justice. (n.d.). *History of Federal Voting Rights Law*. Retrieved from The United States Department of Justice: [http://www.justice.gov/crt/about/vot/intro/intro\\_b.php](http://www.justice.gov/crt/about/vot/intro/intro_b.php)
- The United States Election Assistance Commission. (2013, September). *Election Administration and Voting Survey*. Retrieved from Election Assistance Commission: [http://www.eac.gov/research/election\\_administration\\_and\\_voting\\_survey.aspx](http://www.eac.gov/research/election_administration_and_voting_survey.aspx)

- U.S. Census Bureau. (n.d.). State & County QuickFacts. The United States Census Bureau.
- Vercellotti, T., & Anderson, D. (2006, September 3). Protecting the franchise, or restricting it? The effects of voter identification requirements on turnout.
- Wang, T. A. (2012). *The Politics of Voter Suppression: Defending and Expanding Americans' Right to Vote*. Ithica: Cornell University Press.
- Weiner, R. (2013, April 29). Black voters turned out at higher rate than white voters in 2012 and 2008. *The Washington Post* , p. 1.
- Whitby, K. J. (1997). *The Color of Representation. Congressional Behavior and Black Interests*. Ann Arbor: University of Michigan Press.
- Wise, T. (2010). *Colorblind: The Rise of Post-Racial Politics and the Retreat from Racial Equity*. San Francisco: City Lights Bookstore.