



Preventing Problems at the Polls: Florida

By Rebecca Buckwalter-Poza and Liz Kennedy October 5, 2016

Although making fewer headlines during this election cycle than in the past,³ Florida has a rocky record on voting rights and election integrity. Florida disenfranchises inmates, parolees, probationers, and people with felony convictions.⁴ Moreover, its rights restoration process is notoriously difficult to navigate.⁵ More than 7 percent of adults in Florida have been disenfranchised—a total of 1.3 million people, including 23 percent of all African Americans.⁶ As of 2010, Florida had the highest rate of disenfranchisement of any state.⁷

Desmond Meade, who was formerly incarcerated following a felony conviction and leads efforts in Florida to restore voting rights to those with criminal convictions, was denied the right to cast a vote for his wife, Sheena Meade, when she ran for office this year. “In 2008, it hurt not to be able to be a part of a historic election, but I have even more pain now because I can’t even vote for my own wife,” Meade said. “It’s un-American and totally unfair. I should have that right.”⁸

The danger of changes to voting procedures making it more difficult to vote is greater than ever following *Shelby County v. Holder*, the Supreme Court’s June 2013 decision eliminating the Voting Rights Act’s preclearance provision, which required states with a history of creating barriers to voting for people of color, such as Florida, to seek U.S. Department of Justice approval for changes to voting procedures. In 2013 and 2014, several major cities and counties closed or relocated polling sites that served areas with significant black or Latino populations to less accessible areas.⁹

While Florida’s voter turnout rate remains higher than the national average, overall turnout dropped slightly in Florida from 2008 to 2012, with 60.8 percent of all eligible voters casting a ballot in 2012 as compared with 63.9 percent in 2008. In addition, black turnout declined from 59.6 percent to 56.7 percent.¹⁰ However, Latino turnout held steady: 61.6 percent of eligible Latino voters turned out in 2008 and 61.7 percent cast a ballot in 2012.¹¹

Record-breaking early and in-person voting in March 2016 suggests that Florida has made critical improvements since 2012,¹² but problems during the 2016 primaries serve as a sharp reminder of the many challenges that remain in the form of polling site dysfunction, long wait times, and seriously outdated voting machines, among other issues.*

The integrity of elections in the United States demands that every eligible American is able to cast a ballot and trust that it will be counted. Americans have the right to choose their representatives and take part in electoral decision-making. But across the country, thousands of voters have not had their voices heard—either because of targeted voter suppression laws or poor election administration decisions.¹ While the vast majority of Americans will vote without encountering difficulties, in recent election cycles, voters have faced preventable problems and unnecessary hurdles. Failures at the polls may deny individuals their right to participate in the democratic process.

This series of issue briefs assesses potential problems for voters in states that have experienced issues with election administration or recent changes to voting rules. Each brief analyzes steps to improve election performance and the voting experience. Ongoing lawsuits have led to significant changes in recent weeks, as federal judges have ruled that many provisions of new voting laws discriminate against voters of color and collectively burden voting rights for hundreds of thousands of Americans.² Understanding the potential burdens that voters may face is a first step toward ensuring that voting is free, fair, and accessible for all Americans.

Past voting problems

Florida has a lengthy history of voter purges. In 2000, as the result of a purge based on a flawed list of “felons” purchased from a private company, the state may have prevented a minimum of 12,000 eligible, registered voters from voting.¹³ Some registered voters were removed from the rolls on the basis of just an 80 percent overlap with the last name of a convicted felon, which should not suffice as evidence of a registered voter’s ineligibility.¹⁴ Florida’s penchant for relying on matching criteria such as surnames is especially troubling given the proliferation of typos in government databases: As many as one-fourth of social service records in one Florida database had misspelled city names.¹⁵

Four years later, voting rights groups had to fight to stop Florida from purging 48,000 “suspected felons,” 22,000 of whom were African American and many of whom had their voting rights restored by law.¹⁶ Then, in 2011, Florida Gov. Rick Scott (R) ordered election officials to purge “non-citizen” voters from the rolls.¹⁷ In Miami-Dade County alone, Gov. Scott’s misguided and poorly executed mandate resulted in hundreds of U.S. citizens erroneously being told they were ineligible to vote.¹⁸

In 2008, Florida voters waited 28.8 minutes on average to cast their vote.¹⁹ In 2012, the average voting wait time increased to a daunting 45 minutes.²⁰ Multihour waits at some polling locations kept more than 200,000 voters from casting ballots.²¹ Some voters had to wait as long as six hours,²² and voters of color waited almost twice as long as white voters to cast a ballot.²³ The bipartisan Presidential Commission on Election Administration, formed after long lines plagued polling locations across the country in 2012, recommends that no citizen should have to wait more than 30 minutes to vote.²⁴

Problems in the 2016 primaries

This year, voter confusion was so widespread in Palm Beach County that the Florida Department of State had to intervene and instruct county officials on correct voting protocols for voters without a party affiliation.²⁵ Voters found all entrances to one Boca Raton polling site locked during voting hours.²⁶ Understaffing at a site in Volusia County left just three poll workers to assist voters for two precincts, resulting in wait times of more than an hour.²⁷ Long wait times disproportionately affect older or disabled voters, who may have difficulty standing for such a long period.

** Correction, October 6, 2016: This issue brief incorrectly stated the year of record-breaking early and in-person voting in Florida, which in fact occurred in March 2016.*

At least one Miami-Dade County voter's party affiliation was incorrectly recorded, which would have prevented him from voting in the closed primary if he had not had a copy of his registration with him.²⁸ In Apopka, two polling sites ran out of ballots for both parties and turned voters away.²⁹ Voters in Orange County reported broken machines at multiple polling sites.³⁰ Meanwhile, electronic poll books malfunctioned in both Orange County³¹ and Duval County.³² As a result of the glitch in Duval County, 199 precincts had to check voters' identification against a paper list.³³

What to watch for at the polls

Florida is one of the rare states that has recently loosened a restriction on voting: Although its voter ID law remains in place, poll workers may now accept veterans' health IDs, concealed-carry licenses, and government employee IDs.³⁴ But the state has not addressed a number of other laws that are not conducive to a smooth election day; trends indicative of problematic practices; and technological deficiencies.

As of October 3, Florida's election officials are facing a new challenge in federal court to a law that permits county canvassing boards to reject mail-in ballots on which a voter's signature does not match their signature on file—and denies voters any recourse for curing these so-called signature “defects.”³⁵ County boards threw out hundreds of ballots on this basis during the August 30 primary.³⁶ Many more ballots will meet a similar fate in November if this law remains in effect, as a record number of voters have already requested mail-in ballots.³⁷

Laws governing voter challenges and voter intimidation

This year, Florida does not appear to be engaged in attempts to remove registered voters from their rolls improperly. Most recently, Florida Secretary of State Ken Detzner abandoned a renewed effort to purge “non-citizens” from the rolls in 2014.³⁸ He did so just weeks before the U.S. Court of Appeals for the 11th Circuit finally affirmed that Gov. Scott's 2012 purge violated a federal law prohibiting the “systematic” removal of voters from the rolls in the 90 days before an election.³⁹

According to guidance from the Florida Division of Elections, any elector or poll watcher can challenge voters in the challenger's county within 30 days of the election or at the polls, so long as they do so in writing, signing a statutory oath.⁴⁰ Challenged voters are permitted to vote provisionally at a minimum but, after doing so, must provide additional evidence of eligibility by 5 p.m. on the second day after the election.⁴¹ Florida has made frivolous registration challenges punishable as a first-degree misdemeanor.⁴²

While Florida restricts the number of poll watchers at the polls; requires notification of poll-watcher designations in writing to the supervisor of elections in advance of the election; and bars law enforcement officers from serving as poll watchers, it does not have specific rules regulating poll-watchers' behavior.⁴³ Such regulations are an important means of curtailing avenues of interference and intimidation, such as communicating with voters and taking photos of them at the polls.⁴⁴ However, state law prohibits acts of voter intimidation, such as “threatening or coercing any person for the purpose of interfering with that person’s right to vote” and “using or threatening to use intimidation or coercion to compel a person to vote or not vote.”⁴⁵

Use of provisional balloting

In 2008, 0.42 percent of ballots in Florida—a total of 35,635 votes—were provisional, and 51.4 percent of provisional ballots were rejected.⁴⁶ Four years later, 0.5 percent of ballots—a total of 52,745 votes—were provisional,⁴⁷ and Florida rejected 42.4 percent of these ballots.⁴⁸

Election technology

In Florida, “an ‘electronic database’ may be used as a precinct register at a polling place.”⁴⁹ But Florida is still using voting machines purchased more than 15 years ago.⁵⁰ Florida Secretary of State Detzner has stated that 30 of Florida’s 67 counties “may need new equipment or upgrades.”⁵¹ In 2014, Secretary Detzner stated, “It’s kind of one of those things that you don’t think about until something happens.” He admitted, “We know we need to do something.”⁵² A Polk County supervisor of elections similarly commented, “The equipment is going to start breaking down[:] I feel like I’m driving around in a 10-year-old Ford Taurus and it’s fine and it’s getting the job done, but one of these days it’s not going to wake up.”⁵³ Meanwhile, a Leon County voting systems manager admitted that the county’s voting technology is so outdated that he had to turn to eBay to find a replacement modem—one that’s only a fraction as fast as modern modems—in order to rehabilitate a voting machine.⁵⁴

Conclusion

There is great cause for hope in Florida, especially following the expansion of accepted forms of voter ID⁵⁵ and high voter turnout during the 2016 primaries. However, there is also good reason to remain vigilant in November. Next month could see a repeat of March's primary voting issues with voter confusion and polling site problems, including human error and technological glitches. State officials and voting rights advocates alike should be ready to step in with the correct information and to draw attention to instances of long wait times, inaccessible polling sites, and computer failures in real time.

Rebecca Buckwalter-Poza is a Fellow at the Center for American Progress. Liz Kennedy is the Director of Democracy and Government Reform at the Center.

Endnotes

- 1 Zoltan Hajnal, Nazita Lajevardi, and Lindsay Nelson, "Voter Identification Laws and the Suppression of Minority Votes" (forthcoming), available at <http://pages.ucsd.edu/~zhajnal/page5/documents/voterIDhajnaletal.pdf>; Isela Gutierrez and Bob Hall, "Alarm Bells from Silenced Voters" (Durham, NC: Democracy North Carolina, 2015), available at <http://nc-democracy.org/downloads/SilencedVoterAlarm.pdf>.
- 2 Ian Millhiser, "The State of America's Voting Rights, In One Map," ThinkProgress, September 1, 2016, available at <https://thinkprogress.org/the-state-of-americas-voting-rights-in-one-map-663bc79741cd#.urvnkyn8>; The set of briefs explain legal developments as of their dates of publication.
- 3 Steve Bousquet, "As Voter ID Laws Falter, Florida Shines by Comparison, for Now," *Tampa Bay Times*, August 1, 2016, available at <http://www.tampabay.com/blogs/the-buzz-florida-politics/as-voter-id-laws-face-attack-florida-shines-by-comparison/2287691>.
- 4 Christopher Uggen, Sarah Shannon, and Jeff Manza, "State-Level Estimates of Felon Disenfranchisement in the United States, 2010" (Washington: The Sentencing Project, 2012), available at <http://sentencingproject.org/wp-content/uploads/2016/01/State-Level-Estimates-of-Felon-Disenfranchisement-in-the-United-States-2010.pdf>.
- 5 Jennifer L. Patin, "The 2016 Primaries In-Review," Lawyers' Committee for Civil Rights Under Law, August 4, 2016, available at <https://lawyerscommittee.org/vra2016-primaryelections/>.
- 6 Uggen, Shannon, and Manza, "State-Level Estimates of Felon Disenfranchisement in the United States."
- 7 Ibid.
- 8 Alice Miranda Ollstein, "More than 1.5 Million Florida Voters Will Be Missing from Tuesday's Primary," ThinkProgress, March 14, 2016, available at <https://thinkprogress.org/more-than-1-5-million-florida-voters-will-be-missing-from-tuesdays-primary-ec745315b6c8#.yfqkdvd3>.
- 9 Legal Defense Fund, "Democracy Diminished: State and Local Threats to Voting Post-Shelby County, Alabama v. Holder" (2016), available at http://www.naacpldf.org/files/publications/Democracy%20Diminished-State%20and%20Local%20Voting%20Changes%20Post-Shelby%20v.%20Holder_4.pdf.
- 10 William H. Frey, Ruy Teixeira, and Robert Griffin, "America's Electoral Future: How Changing Demographics Could Impact Presidential Election from 2016 to 2032" (Washington: Center for American Progress, 2016), available at <https://cdn.americanprogress.org/wp-content/uploads/2016/02/25000130/SOC2016-report2.pdf>.
- 11 Ibid.
- 12 Kyle Munzenrieder, "More than 1.6 Million Early Votes Cast in Florida, Breaking Record," *Miami New Times*, March 14, 2016, available at <http://www.miaminewtimes.com/news/more-than-16-million-early-votes-cast-in-florida-breaking-record-8318398>.
- 13 Gregory Palast, "Florida's Flawed 'Voter-Cleansing' Program," Salon, December 4, 2000, available at http://www.salon.com/2000/12/04/voter_file/.
- 14 Myrna Pérez, "Voter Purges" (New York: Brennan Center for Justice, 2008), available at <https://www.brennancenter.org/sites/default/files/legacy/publications/Voter.Purges.f.pdf>.
- 15 Ibid.
- 16 Ibid.
- 17 Judd Legum, "EXCLUSIVE: Florida Telling Hundreds of Eligible Citizens That They Are Ineligible to Vote," ThinkProgress, May 27, 2012, available at <https://thinkprogress.org/exclusive-florida-telling-hundreds-of-eligible-citizens-that-they-are-ineligible-to-vote-e65c5afb2754#.hvdhilbye>.
- 18 Ibid.
- 19 The Pew Charitable Trusts, "Florida," Elections Performance Index," August 9, 2016, available at <http://www.pewtrusts.org/en/multimedia/data-visualizations/2014/elections-performance-index#state-FL>.
- 20 Ibid.
- 21 Nicole Flatow, "Long Voting Lines Drove Away at Least 201K Florida Voters, Study Finds," ThinkProgress, January 23, 2013, available at <https://thinkprogress.org/long-voting-lines-drove-away-at-least-201k-florida-voters-study-finds-2c7e5ea56e7d#.wsyp8izdb>.
- 22 Judd Legum, "After Republicans Restrict Early Voting Hours, Floridians Wait More Than 6 Hours to Vote," ThinkProgress, January 18, 2013, available at <https://thinkprogress.org/after-republicans-restrict-early-voting-hours-floridians-wait-more-than-6-hours-to-vote-d4e4ad7f1269#.3aow3wwbg>.
- 23 Nicole Flatow, "Blacks, Hispanics Waited Almost Twice as Long to Vote as Whites in 2012," ThinkProgress, February 5, 2013, available at <https://thinkprogress.org/blacks-hispanics-waited-almost-twice-as-long-to-vote-as-whites-in-2012-d8e443973a9e#.adawf7qd4>.
- 24 Presidential Commission on Election Administration, *The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration* (2014), available at <https://www.supportthevoter.gov/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.
- 25 Monique O. Madan, "Florida Primary Live Blog: Voters Pick Among Trump, Rubio, Sanders, Clinton," *Miami Herald*, March 15, 2016, available at <http://www.miamiherald.com/news/politics-government/election/article66107507.html>.
- 26 Patin, "The 2016 Primaries In-Review."
- 27 Ibid.
- 28 Madan, "Florida Primary Live Blog."
- 29 Emily Schultheis, "Reports of Voting Problems Surface in Florida Primary," CBS News, March 15, 2016, available at <http://www.cbsnews.com/news/reports-of-voting-problems-surface-in-florida-primary/>.
- 30 Patin, "The 2016 Primaries In-Review."
- 31 Alice Miranda Ollstein, "Bomb Threats, Glitches, and Confusion Reported in Florida's Primary," ThinkProgress, March 15, 2016, available at <https://thinkprogress.org/bomb-threats-glitches-and-confusion-reported-in-floridas-primary-20c813b2ae37#.fc5niohfz>.
- 32 Jackie Salo, "Florida Primary Ballot Problems: Duval County Precincts Face Computer Problems and Check-In, Voting Delays," *International Business Times*, March 15, 2016, available at <http://www.ibtimes.com/florida-primary-ballot-problems-duval-county-precincts-face-computer-problems-check-2336859>.
- 33 Madan, "Florida Primary Live Blog: Voters Pick Among Trump, Rubio, Sanders, Clinton."
- 34 Brennan Center for Justice, "Voting Laws Roundup 2016," April 18, 2016, available at <https://www.brennancenter.org/analysis/voting-laws-roundup-2016>.
- 35 Steve Bousquet, "Democrats Sue Florida, Challenging Key Part of Mail Ballot Law," *Tampa Bay Times*, October 3, 2016, available at <http://www.tampabay.com/news/politics/stateroundup/democrats-sue-florida-challenging-key-part-of-mail-ballot-law/2296349/>.
- 36 Ibid.

- 37 Marisa Schultz, "Florida Voters Set Record for Mail-In Ballot Requests," *New York Post*, September 29, 2016, available at <http://nypost.com/2016/09/29/florida-voters-set-record-for-mail-in-ballot-requests/>.
- 38 Josh Israel, "Florida Botches Latest [sic] Effort to Purge Voter Rolls," *ThinkProgress*, March 28, 2014, available at <https://thinkprogress.org/florida-botches-latest-effort-to-purge-voter-rolls-61b2c285b5cc#5lywm5eu6>.
- 39 Steve Bousquet, "Florida Governor Rick Scott's 2012 Voter Purge Violated Federal Law, Court Rules," *Tampa Bay Times*, April 1, 2014, available at <http://www.tampabay.com/news/politics/stateroundup/appeals-court-rules-florida-voter-purge-violated-federal-law/2173054>.
- 40 Florida Division of Elections, "Voter Challenges" (2016), available at <https://soe.dos.state.fl.us/pdf/DE-Guide-0009.Guidelines-for-Voter-Challenges.pdf>; Fla. Stat. § 101.111, available at http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0101/Sections/0101.111.html.
- 41 *Ibid.*
- 42 *Ibid.*; Liz Kennedy and others, "Bullies at the Ballot Box" (New York: Demos, 2012), available at <http://www.demos.org/sites/default/files/publications/BulliesAtTheBallotBox-Final.pdf>.
- 43 Kennedy and others, "Bullies at the Ballot Box."
- 44 *Ibid.*
- 45 *Ibid.*; Fla. Stat. § 104.0515(3); Fla. Stat. § 104.061.
- 46 U.S. Election Assistance Commission, *2008 Election Administration and Voting Survey* (2009), available at <http://www.eac.gov/assets/1/Documents/2008%20Election%20Administration%20and%20Voting%20Survey%20EAVS%20Report.pdf>.
- 47 The Pew Charitable Trusts, "Elections Performance Index: Florida," August 9, 2016, available at <http://www.pewtrusts.org/en/multimedia/data-visualizations/2014/elections-performance-index#state-FL>.
- 48 U.S. Election Assistance Commission, *2012 Election Administration and Voting Survey* (2013), available at <https://www.supportthevoter.gov/files/2014/01/2012-EAC-Voter-Survey.pdf>.
- 49 Fla. Stat. § 98.461.
- 50 Lawrence Norden and Christopher Famighetti, "America's Voting Machines at Risk" (New York: Brennan Center, 2015), available at https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf.
- 51 Jim Turner, "Florida Secretary of State Concerned About Aging Election Equipment," *Sun Sentinel*, November 19, 2014, available at <http://www.sun-sentinel.com/news/politics/fl-nsf-election-equipment-20141119-story.html>.
- 52 *Ibid.*
- 53 Norden and Famighetti, "America's Voting Machines at Risk."
- 54 *Ibid.*
- 55 Brennan Center for Justice, "Voting Laws Roundup 2016."