

# Legal Memorandum



Published by The Heritage Foundation

No. 70  
July 13, 2011

## Voter Photo Identification: Protecting the Security of Elections

*Hans A. von Spakovsky*

**Abstract:** *Voter fraud may be a part of America's history, but it does not have to be a part of America's future. Six states—Georgia, Indiana, Texas, Rhode Island, South Carolina, and Kansas—have recently adopted laws requiring voters to produce a photograph identification card (voter ID) when they vote at their polling places on Election Day. Such voter ID laws are under attack from opponents armed with an array of claims—specious allegations and over-the-top tales of voter disenfranchisement—but courts continue to rule in favor of voter ID requirements. Therefore, states should continue to pursue voter ID laws. They have a valid and legitimate state interest not only in deterring and detecting voter fraud, but also in maintaining the confidence of their citizens in the security of U.S. elections.*

Many state legislatures are considering whether to improve election integrity by requiring voters to produce a photograph identification card (voter ID) when they vote at their polling places on Election Day. Georgia, Indiana, Texas, Rhode Island, South Carolina, and Kansas have answered that question with a resounding “yes” by implementing such voter-ID laws.<sup>1</sup> Those states understand that the United States has an unfortunate history of voter fraud and that requiring individuals to authenticate their identity at the polls is a fundamental and necessary component of ensuring the integrity of the election process.

Every individual who is eligible to vote should have the opportunity to do so. It is equally important, however, that the votes of eligible voters are not stolen or

### Talking Points

- Requiring voters to authenticate their identity at the polling place is necessary to protect the integrity of—and confidence of citizens in—U.S. elections.
- Voter ID can prevent and deter impersonation fraud, voting under fictitious voter registrations, double voting by individuals registered in more than one state, and voting by illegal aliens.
- Contrary to the claims of opponents, numerous studies have shown that voter ID requirements do not decrease the turnout of voters or have a disparate impact on minority, poor, or elderly voters.
- Turnout has increased in states like Georgia and Indiana that have implemented voter ID laws, and courts have consistently dismissed litigation against such laws because of the inability of plaintiffs to produce a single individual who would be unable to vote because of the voter ID requirement.
- Polls demonstrate that the American people overwhelmingly support this common-sense reform across all racial and ethnic lines.

This paper, in its entirety, can be found at:  
<http://report.heritage.org/lm0070>

Produced by the Center for Legal & Judicial Studies

Published by The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002-4999  
(202) 546-4400 • [heritage.org](http://heritage.org)

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

diluted by a fraudulent or bogus vote cast by an ineligible or imaginary voter. The evidence from academic studies and actual turnout in elections is also overwhelming that—contrary to the shrill claims of opponents—voter ID does *not* depress the turnout of voters, including minority, poor, and elderly voters.

### The Need for Voter ID

Requiring voters to authenticate their identity at the polling place is necessary to protect the integrity of elections and access to the voting process. Every illegal vote steals or dilutes the vote of a legitimate voter. Opponents of voter ID claim that it can only prevent impersonation fraud at the polls, which rarely happens. That assertion is incorrect. Voter ID can prevent and deter:

- Impersonation fraud at the polls;
- Voting under fictitious voter registrations;
- Double voting by individuals registered in more than one state or locality; and
- Voting by illegal aliens, or even legal aliens who are still not entitled to vote since state and federal elections are restricted to U.S. citizens.

As the Commission on Federal Election Reform, headed by former President Jimmy Carter and former Secretary of State James Baker, said in 2005:

The electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters. Photo IDs currently are needed to board a plane, enter federal buildings, and cash a check. Voting is equally important.<sup>2</sup>

Voter fraud does exist, and criminal penalties imposed after the fact are an insufficient deter-

rent to protect against it. For example, in *Crawford v. Marion County Election Board*,<sup>3</sup> the 2008 case in which the U.S. Supreme Court upheld Indiana's voter ID law, the Court said that despite such criminal penalties:

It remains true, however, that flagrant examples of such fraud in other parts of the country have been documented throughout this Nation's history by respected historians and journalists, that occasional examples have surfaced in recent years...that...demonstrate that not only is the risk of voter fraud real but that it could affect the outcome of a close election.<sup>4</sup>

For those trying to defend America's electoral integrity, the stakes are high. The relative rarity of voter fraud prosecutions for impersonation fraud, as the Seventh Circuit Court of Appeals pointed out in the Indiana case, can be "explained by the endemic underenforcement" of voter fraud cases and "the

---

***In states without identification requirements, election officials have no way to prevent the casting of fraudulent votes by unscrupulous individuals based on fictitious voter registrations.***

---

extreme difficulty of apprehending a voter impersonator" without the tools—a voter ID—needed to detect such fraud.<sup>5</sup> This nation should not tolerate even one election being stolen, but without the tools to detect these illegal schemes, it is hard to know just how many close elections are being affected.

In 1984, a dramatic example of such fraud was revealed by a New York State grand jury.<sup>6</sup> The grand

1. GA. CODE ANN. §21-2-417 (2011); IND. CODE §3-5-2-40.5 (2011); H.R. 2067 (Kan. 2011); S.B. 14 (Tex. 2011). Rhode Island Governor Lincoln Chafee recently signed into law a voter ID bill passed by the Democrat-controlled state legislature, saying he believed that "requiring identification at the polling place is a reasonable request to ensure the accuracy and integrity of our elections." *Rhode Island Governor Signs Voter ID Bill*, REUTERS, July 6, 2011. South Carolina House Bill 3003 (signed on May 18, 2011 by governor).
2. COMMISSION ON FEDERAL ELECTION REFORM, BUILDING CONFIDENCE IN U.S. ELECTIONS, REPORT OF THE COMMISSION ON FEDERAL ELECTION REFORM 18 (2005), available at <http://www1.american.edu/ia/cfer>.
3. 553 U.S. 181, 128 S.Ct. 1610 (2008). Indiana's voter ID law has also been upheld by the Indiana Supreme Court. See *League of Women Voters v. Indiana*, 929 N.E.3d 758 (Ind. 2010).
4. *Crawford*, 128 S.Ct. at 1619.
5. *Crawford v. Marion County Election Board*, 472 F.3d 949, 953 (7th Cir. 2007).

jury detailed a widespread conspiracy that operated without detection for 14 years in Brooklyn. This conspiracy involved not only impersonation of legitimate voters at the polls, but also voting under fictitious names. As a result, thousands of fraudulent votes were cast in state and congressional elections.

One of the witnesses before the grand jury described how he led a crew of eight individuals from polling place to polling place to vote. Each member of his crew voted in excess of 20 times, and there were approximately 20 other such crews operating during that election.<sup>7</sup> This extensive impersonation fraud and voting under bogus voter registrations could have been stopped and detected if New York had required voters to authenticate their identity at the polls.

---

***There are enough incidents and reported cases of actual voter fraud to make it very clear that America must take the steps necessary to make such fraud harder to commit.***

---

According to the grand jury in the Brooklyn case, the advent of mail-in registration—a form of registration that was implemented nationally with the passage of the National Voter Registration Act of 1993—was also a key factor in perpetrating the fraud.<sup>8</sup> In recent elections, officials have detected numerous fraudulent voter registration forms, many of which were submitted by ACORN—the ethically challenged organization that has been found to have engaged in the submission of tens of thousands of invalid voter registration forms in multiple

jurisdictions. Given that most election jurisdictions engage in minimal to nonexistent screening efforts, however, there is no way to know how many invalid registrations slipped through. In states without identification requirements, election officials have no way to prevent the casting of fraudulent votes by unscrupulous individuals based on fictitious voter registrations.

The problem of possible double voting by someone who is registered in two states<sup>9</sup> is illustrated by one of the Indiana voters highlighted by the League of Women Voters in their *Crawford v. Marion County Election Board* amicus brief. This voter was used by the league as an example of someone who had difficulty voting because of the voter ID requirement. However, after an Indiana newspaper interviewed this voter, it turned out that the problems she encountered stemmed from her trying to use a Florida driver's license to vote in Indiana. Not only did she have a Florida driver's license, but she was also registered to vote in Florida where she owned a second home. In fact, she had claimed residency in Florida by filing for a homestead exemption on her property taxes, which is normally only available to individuals who claim residency in a state.<sup>10</sup> So the Indiana law worked as intended: It prevented someone from illegally voting twice.

Since the vast majority of states (and the federal government) will not issue an official identification to an illegal alien, requiring state or federally issued photo IDs can also prevent noncitizens, particularly illegal aliens, from voting in elections. Given the increase in reports of noncitizens voting, such measures are needed.<sup>11</sup> For example:

6. Hans A. von Spakovsky, *Stolen Identities, Stolen Votes: A Case Study in Voter Impersonation*, LEGAL MEMORANDUM NO. 22, HERITAGE FOUNDATION (March 10, 2008), available at <http://www.heritage.org/Research/Reports/2008/03/Stolen-Identities-Stolen-Votes-A-Case-Study-in-Voter-Impersonation>.
7. *Id.* at p. 4.
8. 42 U.S.C. §1973gg-1 *et seq.* (1993).
9. Although the Help America Vote Act of 2002 required states to implement “a single, uniform, official, centralized, interactive computerized statewide voter registration list,” there is no national voter registration database that would allow states to compare their voter registration lists to detect individuals registered in more than one state. 42 U.S.C. §15483(a)(1) (2002).
10. Cindy Bevington, *Voter Cited by Opponents of Indiana's ID Law Registered in Two States*, EVENING STAR, January 9, 2008.
11. Hans A. von Spakovsky, *The Threat of Non-Citizen Voting*, LEGAL MEMORANDUM NO. 28, THE HERITAGE FOUNDATION (July 10, 2008), available at <http://www.heritage.org/Research/Reports/2008/07/The-Threat-of-Non-Citizen-Voting?query=The+Threat+of+Non-Citizen+Voting>.

- The Colorado secretary of state recently testified before Congress that a check of the voter registration rolls indicated over 11,000 individuals who were non-citizens at the time they registered to vote, at least 5,000 of whom likely voted.<sup>12</sup>
- New Mexico Secretary of State Dianna Duran, reported that a preliminary check of voter registration rolls had already found 37 noncitizens that had voted in New Mexico elections.<sup>13</sup>

States that issue driver's licenses to noncitizens who are in the United States legally (and those few remaining states like New Mexico that issue driver's licenses to illegal aliens) should ensure that such licenses note on their face that the holder is *not* a U.S. citizen.

Even though a small amount of fraud can sometimes tip a close election, there is no evidence that there is “massive” voter fraud in the United States—either in general or in any specific state. In fact, election officials around the country do a good job overall of administering elections, especially given their lack of resources. But there are recurring problems with America's voter registration system because many states do not do an adequate job of checking the accuracy and validity of new voter registrations.

The potential for abuse and the casting of fraudulent ballots by ineligible voters (like illegal aliens or persons registered in more than one state) or in the names of fake voters, dead voters, or voters who have moved but whose names remain on the registration list exists, and such fraud has occurred in

many reported cases. As the Supreme Court recognized, there is a “real risk that voter fraud could affect a close election's outcome.”<sup>14</sup> There are enough incidents and reported cases of actual voter fraud to make it very clear that America must take the steps necessary to make such fraud harder to commit.<sup>15</sup> Requiring voter ID is just one such common-sense step that can stop or deter many of these problems.

### Voter ID Does Not Reduce Turnout

States must protect the security of the election process, but they must also ensure that every eligible individual is able to vote. Not only does voter ID help to prevent fraudulent voting, but where it has been implemented, it has not reduced turnout. Despite many false claims to the contrary, there is no evidence that voter ID decreases the turnout of voters or has a disparate impact on minority, poor, or elderly voters; the overwhelming majority of Americans have a photo ID or can easily obtain one. Democratic Senator Harold Metts, who sponsored Rhode Island's voter ID law, said that “as a minority citizen and a senior citizen, I would not support anything that I thought would present obstacles or limit protections.”<sup>16</sup>

Numerous studies have borne out the fact that requiring an ID to vote does not depress turnout. For example:

- A study by the University of Missouri on turnout in Indiana showed that turnout actually *increased* by about 2 percentage points overall in Indiana in 2006 in the first election after the voter ID law went into effect.<sup>17</sup> There was no

12. *The 2010 Election: A Look Back at What Went Right and Wrong Before the Comm. on House Administration*, 112th Cong. (2011) (statement of Colorado Secretary of State Scott Gessler), available at [http://cha.house.gov/images/stories/documents/03312011gessler\\_testimony.pdf](http://cha.house.gov/images/stories/documents/03312011gessler_testimony.pdf).

13. Milan Simonich, *Secretary of State Says Voter Fraud Probably Uncovered*, ALAMOGORDO DAILY NEWS, March 15, 2011.

14. *Crawford*, 128 S.Ct. at 1612.

15. For general works on the history of voter fraud and specific cases, see TRACY CAMPBELL, *DELIVER THE VOTE—A HISTORY OF ELECTION FRAUD, AN AMERICAN POLITICAL TRADITION—1742–2004* (Carroll & Graf Publishers) (2005); JOHN FUND, *STEALING ELECTIONS—HOW VOTER FRAUD THREATENS OUR DEMOCRACY* (Encounter Books) (2008); LARRY SABATO & GLENN R. SIMPSON, *DIRTY LITTLE SECRETS—THE PERSISTENCE OF CORRUPTION IN AMERICAN POLITICS* (Random House) (1996).

16. *Rhode Island Governor Signs Voter ID Bill*, REUTERS, July 6, 2011.

17. Jeffrey Milyo, *The Effects of Photographic Identification on Voter Turnout: A County Level Analysis*, INSTITUTE OF PUBLIC POLICY REPORT 10-2007, TRUMAN SCHOOL OF PUBLIC AFFAIRS, UNIVERSITY OF MISSOURI (Nov. 10, 2007), available at <http://munews.missouri.edu/news-releases/2008/0102-voter-id.php>.

evidence that counties with higher percentages of minority, poor, elderly, or less-educated populations suffered any reduction in voter turnout. In fact, “the only consistent and statistically significant impact of photo ID in Indiana is to increase voter turnout in counties with a greater percentage of Democrats relative to other counties.”<sup>18</sup>

- In September 2007, The Heritage Foundation released a study analyzing the 2004 election turnout data for all states. This study found that voter ID laws do not reduce the turnout of voters, including African-Americans and Hispanics. Such voters were just as likely to vote in states with ID as in states where just their names were asked at the polling place.<sup>19</sup>
- A study by the University of Delaware and the University of Nebraska–Lincoln examined data from the 2000, 2002, 2004, and 2006 elections. At both the aggregate and individual levels, the study found that voter ID laws do not affect turnout, including across racial/ethnic/socioeconomic lines. The study concludes that “concerns about voter identification laws affecting turnout are much ado about nothing.”<sup>20</sup>
- A survey by American University of registered voters in Maryland, Indiana, and Mississippi to see whether registered voters had photo IDs concluded that “showing a photo ID as a requirement of voting does not appear to be a serious problem in any of the states” because “[a]lmost all registered voters have an acceptable form of photo ID.”<sup>21</sup> Less than 0.5 percent of respondents had neither a photo ID nor citizenship documentation. A 2008 election survey of 12,000 registered voters in all 50 states found that fewer than nine people were unable to vote because of voter ID requirements.<sup>22</sup>
- In 2010, a Rasmussen poll of likely voters in the United States showed overwhelming support (82 percent) for requiring photo ID in order to vote in elections. This support runs across ethnic and racial lines; Rasmussen reports that “[t]his is a sentiment that spans demographics, as majorities in every demographic agree.”<sup>23</sup>
- A similar study by John Lott in 2006 also found no effect on voter turnout and, in fact, found an indication that reducing voter fraud (through means such as voter ID) may have a positive impact on voter turnout.<sup>24</sup>

18. *Id.*

19. David B. Muhlhausen and Keri Weber Sikich, *New Analysis Shows Voter Identification Laws Do Not Reduce Turnout*, THE HERITAGE FOUNDATION (Sept. 10, 2007), available at [http://s3.amazonaws.com/thf\\_media/2007/pdf/cda07-04.pdf](http://s3.amazonaws.com/thf_media/2007/pdf/cda07-04.pdf).

20. Jason D. Mycoff, Michael W. Wagner, and David C. Wilson, *The Empirical Effects of Voter-ID Laws: Present or Absent*, PS: POLITICAL SCIENCE & POLITICS, 42 (2009), 121–126. An earlier version of this paper appeared as Jason D. Mycoff, Michael W. Wagner, and David C. Wilson, *Do Voter Identification Laws Affect Voter Turnout?* Working Paper, DEPARTMENT OF POLITICAL SCIENCE AND INTERNATIONAL RELATIONS, UNIVERSITY OF DELAWARE (2007).

21. *Voter IDs Are Not the Problem: A Survey of Three States*, CENTER FOR DEMOCRACY & ELECTION MANAGEMENT, AMERICAN UNIVERSITY 37 (Jan. 2008), available at <http://www.american.edu/spa/cdem/upload/VoterIDFinalReport1-9-08.pdf>. This article criticized a widely cited study in Wisconsin by John Pawasarat that reported that 20 percent of the state’s population lacked a driver’s license and that minorities, youth, and elderly residents were less likely to have ID cards. It overstated the percentage of residents without a driver’s license by oversampling African-Americans and low-income people and failing to adjust their estimates. *Id.* at 8.

22. MICHAEL ALVAREZ, STEPHEN ANSOLABEHRE, ET AL., 2008 SURVEY OF THE PERFORMANCE OF AMERICAN ELECTIONS, FINAL REPORT, 20 (2006). A 2006 survey of more than 36,000 voters found only “23 people in the entire sample—less than one-tenth of 1 percent of reported voters” who were unable to vote because of an ID requirement. Stephen Ansolabehere, *Ballot Bonanza*, SLATE, March 16, 2007.

23. *82% Say Voters Should Be Required to Show Photo ID*, RASMUSSEN REPORTS (Aug. 19, 2010), [http://www.rasmussenreports.com/public\\_content/politics/general\\_politics/august\\_2010/82\\_say\\_voters\\_should\\_be\\_required\\_to\\_show\\_photo\\_id](http://www.rasmussenreports.com/public_content/politics/general_politics/august_2010/82_say_voters_should_be_required_to_show_photo_id).

24. John Lott, *Evidence of Voter Fraud and the Impact that Regulations to Reduce Fraud Have on Voter Participation Rates*, UNIVERSITY OF MARYLAND FOUNDATION (August 18, 2006), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=925611](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=925611).

That is certainly true in a classic case of voter fraud committed in Greene County, Alabama.<sup>25</sup> In that county, which is 80 percent African-American, voter turnout increased after several successful voter fraud prosecutions instilled new confidence in local voters regarding the integrity of the election process.

---

***There were 100,000 more votes in the Democratic primary than in the Republican primary in Georgia in 2008, and the number of individuals who had to vote with a provisional ballot because they had not obtained the free photo ID available from the state was less than 0.01 percent.***

---

Actual election results in Georgia and Indiana also confirm that suppositions about voter ID hurting minority turnout are incorrect. Turnout in both states increased more dramatically in 2008 in both the presidential preference primary *and* the general election in the first presidential elections held after their photo ID laws went into effect than they did in some states *without* photo ID.

There was record turnout in Georgia in the 2008 presidential primary election—over 2 million voters, more than twice as much as in 2004 when the voter photo ID law was not in effect (the law was first applied to local elections in 2007). The number of African-Americans voting in the 2008 primary also doubled from 2004. In fact, there were 100,000 more votes in the Democratic primary than in the Republican primary,<sup>26</sup> and the number of individuals who had to vote with a provisional bal-

lot because they had not obtained the free photo ID available from the state was less than 0.01 percent.

In the 2008 general election when President Barack Obama was elected, Georgia, with one of the strictest voter ID laws in the nation, had the largest turnout in its history—more than 4 million voters. Democratic turnout was up an astonishing 6.1 percentage points from the 2004 election when there was no photo ID requirement, the fifth largest increase of any state.<sup>27</sup>

Overall turnout in Georgia went up 6.7 percentage points, the second highest increase in the country and a striking jump even in an election year when there was a general increase in turnout over the prior presidential election.<sup>28</sup> The black share of the statewide vote increased from 25 percent in 2004 to 30 percent in 2008 according to the Joint Center for Political and Economic Studies.<sup>29</sup> And according to Census Bureau surveys, 65 percent of the black voting-age population voted in the 2008 election compared to only 54.4 percent in 2004, an increase of over 10 percentage points.<sup>30</sup>

---

***The Georgia voter ID requirement went into effect because it was upheld in final orders issued by every state and federal court in Georgia that reviewed the law, including the Georgia Supreme Court.***

---

By contrast, the Democratic turnout in the nearby state of Mississippi, also a state with a high percentage of black voters but without a voter ID

- 
25. Hans A. von Spakovsky, *Absentee Ballot Fraud: A Stolen Election in Greene County, Alabama*, LEGAL MEMORANDUM NO. 31, THE HERITAGE FOUNDATION (Sept. 5, 2008), available at <http://www.heritage.org/Research/Reports/2008/09/Absentee-Ballot-Fraud-A-Stolen-Election-in-Greene-County-Alabama?query=Absentee+Ballot+Fraud:+A+Stolen+Election+in+Greene+County+Alabama>.
26. Turnout in Democratic primaries is obviously a clear indicator of black turnout since upwards of 90 percent of African-Americans vote Democratic.
27. Press Release, American University, *Much-hyped Turnout Record Fails to Materialize—Convenience Voting Fails to Boost Turnout* (Nov. 6, 2008).
28. *Id.*
29. David Bositis, *Blacks and the 2008 Election, A Preliminary Analysis*, JOINT CENTER FOR POLITICAL AND ECONOMIC STUDIES (Nov. 2008).
30. U.S. CENSUS BUREAU, *Voting and Registration in the Election of November 2004* (May 25, 2005), <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2004/tab04a.xls>; U.S. CENSUS BUREAU, *Voting and Registration in the Election of November 2008* (Feb. 2009), <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2008/Table%2004b.xls>.

requirement, increased by only 2.35 percentage points. Turnout in the 2010 congressional election in Georgia was over 2.6 million voters—an increase of almost 500,000 voters over the 2006 election. While only 42.9 percent of registered black Georgians voted in 2006, 50.4 percent voted in 2010 with the voter ID law in effect, an increase of over 7 percentage points.<sup>31</sup> As Georgia’s secretary of state recently pointed out, when compared to the 2006 election, voter turnout in 2010 “among African Americans outpaced the growth of that population’s pool of registered voters by more than 20 percentage points.”<sup>32</sup>

---

***In Indiana, which the U.S. Supreme Court said has the strictest voter ID law in the country, turnout in the Democratic presidential preference primary in 2008 quadrupled from the 2004 election when the photo ID law was not in effect.***

---

The Georgia voter ID requirement went into effect because it was upheld in final orders issued by every state and federal court in Georgia that reviewed the law, including the Eleventh Circuit Court of Appeals<sup>33</sup> and, most recently, the Georgia Supreme Court.<sup>34</sup> As these courts held, such an ID requirement is not discriminatory and does not violate the Constitution or any federal voting rights laws, including the Voting Rights Act of 1965.

In Georgia, as has happened in every state that has considered voter ID legislation, organizations like the ACLU and the NAACP made specious claims that there were hundreds of thousands of voters without photo ID. Yet when dismissing all of their claims, the federal court pointed out that after two years of litigation, none of the plaintiff organizations like the NAACP had been able to produce a single individual or member who did not have a

photo ID or could not easily obtain one. The district court judge concluded that:

[This] failure to identify those individuals “is particularly acute” in light of the Plaintiffs’ contention that a large number of Georgia voters lack acceptable Photo ID.... [T]he fact that Plaintiffs, in spite of their efforts, have failed to uncover anyone “who can attest to the fact that he/she will be prevented from voting” provides significant support for a conclusion that the photo ID requirement does not unduly burden the right to vote.<sup>35</sup>

Clearly, such erroneous claims are an attempt only to frustrate proponents of voter ID.

In Indiana, which the U.S. Supreme Court said has the strictest voter ID law in the country, turnout in the Democratic presidential preference primary in 2008 quadrupled from the 2004 election when the photo ID law was not in effect—in fact, there were 862,000 more votes cast in the Democratic primary than in the Republican primary. In the general election in November, the turnout of Democratic voters increased by 8.32 percentage points from 2004, the largest increase in Democratic turnout of any state in the nation. According to Census Bureau surveys, 59.2 percent of the black voting-age population voted in the 2008 election compared to only 53.8 percent in 2004, an increase of over 5 percentage points.

The neighboring state of Illinois, with no photo ID requirement and President Obama’s home state, had an increase in Democratic turnout of only 4.4 percentage points—only half of Indiana’s increase. Turnout in the 2010 congressional election in Indiana was almost 1.75 million voters, an increase of more than 77,000 voters over the 2006 election. Indiana was one of the states with a “large and impressive” increase in black turnout in the 2010

31. See GEORGIA SECRETARY OF STATE, VOTER REGISTRATION SYSTEM, ACTIVE VOTERS BY RACE/GENDER, GENERAL ELECTION VOTING HISTORY (Nov. 2, 2010), available at [http://www.sos.georgia.gov/elections/voter\\_registration/2010%20Stats/By%20Age,%20Race,%20&%20Gender\\_2010\\_General%20Election.pdf](http://www.sos.georgia.gov/elections/voter_registration/2010%20Stats/By%20Age,%20Race,%20&%20Gender_2010_General%20Election.pdf); [http://www.sos.georgia.gov/elections/voter\\_registration/11-7-06\\_precinct.pdf](http://www.sos.georgia.gov/elections/voter_registration/11-7-06_precinct.pdf).

32. Brian Kemp, Letter to the Editor, WASHINGTON POST, June 25, 2011.

33. *Common Cause of Georgia v. Billups*, 554 F.3d 1340 (11th Cir. 2009); cert. denied, 129 S.Ct. 2770 (U.S. 2009).

34. *Democratic Party of Georgia v. Perdue*, \_\_\_ S.E.2d \_\_\_, 2011 WL 767753 (Ga. March 7, 2011).

35. *Common Cause of Georgia v. Billups*, 504 F.Supp.2d 1333, 1380 (N.D. Ga. 2007).

election: “the black share of the state vote was higher in 2010 than it was in 2008, a banner year for black turnout.”<sup>36</sup> In fact, the black share of the total vote went from only 7 percent in 2008 to 12 percent in 2010 (this in the state with the strictest voter ID law in the country).<sup>37</sup>

One misleading story constantly relied on by opponents of Indiana’s ID law is the claim that elderly nuns in Indiana “were turned away from the polls for lack of picture IDs.”<sup>38</sup> In fact, the nuns had pointedly refused to obtain photo IDs to vote prior to the election and were turned away from the polls by another nun who ran the convent precinct, violating federal and state law that required her to provide the nuns with provisional ballots. Those ballots would have been counted if the nuns had gone to the county clerk’s office within 10 days after the election to show an ID or sign an affidavit testifying to their identity. An office where they could have easily obtained an ID was only two miles from the convent. These nuns were also all over 65, automatically entitling them to vote by absentee ballot without an ID.<sup>39</sup>

The nuns could have voted without difficulty were it not for their refusal (not inability) to comply with Indiana law and the refusal of the precinct election official, their fellow sister, to comply with federal and state law.<sup>40</sup> This incident raises the question of whether the entire incident was trumped up to generate misleading news from gullible reporters and sympathetic activists.

Just as in the federal case in Georgia, the federal court in Indiana noted the complete inability of the plaintiffs in that case to produce anyone who would not be able to vote because of the photo ID law:

Despite apocalyptic assertions of wholesale voter disenfranchisement, Plaintiffs have produced not a single piece of evidence of any identifiable registered voter who would be prevented from voting pursuant to [the photo ID law] because of his or her inability to obtain the necessary photo identification. Similarly, Plaintiffs have failed to produce any evidence of any individual, registered or unregistered, who would have to obtain photo identification in order to vote, let alone anyone who would undergo any appreciable hardship to obtain photo identification in order to be qualified to vote.<sup>41</sup>

Despite the efforts of opponents of voter ID, such specious claims have failed to gain traction in any courtroom across the country.

Finally, opponents of voter ID laws have charged that requiring an ID, even when it is free,<sup>42</sup> is a “poll tax” because of the incidental costs, such as possible travel to a registrar’s office or obtaining a birth certificate, that may be involved. Such a “poll tax” claim, for instance, was recently raised in Georgia. The federal court, however, dismissed this claim, agreeing with the Indiana federal court that:

[Such an argument] represents a dramatic overstatement of what fairly constitutes a “poll tax.” Thus, the imposition of tangential burdens does not transform a regulation into a poll tax. Moreover, the cost of time and transportation cannot plausibly qualify as a prohibited poll tax because those same “costs” also result from voter registration and in-person voting requirements, which one would not reasonably construe as a poll tax.<sup>43</sup>

36. David A. Bositis, *supra* note 29, at 3.

37. *Id.* at 12.

38. Editorial, *GOP’s Anti-Fraud Regulations Smack of Vote Suppression*, USA TODAY, June 13, 2011.

39. John Fund, *Sister Act*, WALL STREET JOURNAL, May 8, 2008, available at <http://online.wsj.com/article/SB121018485894374391.html>.

40. Provisional ballots are required by 42 U.S.C. §15482(a) and Indiana Code §3-11.7-2-1.

41. *Indiana Democratic Party v. Rokita*, 458 F.Supp.2d 775, 822–823 (S.D. Ind. 2006).

42. The fact that an ID for voting purposes can be obtained without charge by any voter in Indiana and Georgia has led to the absurd charge that even if the IDs are free, “states will find other ways to make the IDs hard to get.” Editorial, *supra* note 38. For a major American newspaper to claim such intentional misbehavior by state officials based on no evidence whatsoever is irresponsible and reckless.



Clearly, these absurd cries of “poll tax,” are simply another tactic in the increasingly desperate campaign against voter ID legislation.

## Conclusion

Despite all of the evidence to the contrary, opponents of voter ID refuse to admit that voter turnout is unaffected by such a requirement. Their claim that the implementation of voter ID laws “smacks of vote suppression”<sup>44</sup> is preposterous and an outrageous libel on the American people and their elected representatives. The vitriolic rhetoric engaged in by opponents of voter ID is a sign of desperation; their claims of “suppression” and “intimidation” have been shown to be completely untrue.

America is one of the only democracies in the world that does not uniformly require voters to present photo ID when they vote. Across the globe, democracies administer such a requirement without any problems and without any reports that their citizens are in any way burdened when voting.

In fact, America’s southern neighbor Mexico, which has a much larger rate of poverty than the United States, requires both a photo ID and a thumbprint to vote—and turnout has increased in Mexican elections since this requirement went into

effect in the 1990s. Mexico’s voter ID laws are also credited with reducing the fraud that had prevailed in many Mexican elections and “allowing the 2000 election of Vicente Fox, the first opposition party candidate to be elected president of Mexico in seventy years.”<sup>45</sup>

Requiring voters to authenticate their identity is a perfectly reasonable and easily met requirement. Such measures are supported by the vast majority of voters of all races and ethnic backgrounds. As the U.S. Supreme Court has noted, voter ID protects the integrity and reliability of the electoral process. All states have a valid and legitimate state interest not only in deterring and detecting voter fraud, but also in maintaining the confidence of their citizens in the security of U.S. elections.

—*Hans A. von Spakovsky is a Senior Legal Fellow in the Center for Legal & Judicial Studies at the Heritage Foundation. He is a former member of the Federal Election Commission and a former counsel to the Assistant Attorney General for Civil Rights at the U.S. Department of Justice. He is a former member of the Fulton County Registration and Election Board in Georgia and currently serves as vice-chairman of a county electoral board in Virginia.*

43. *Common Cause of Georgia v. Billups*, 439 F.Supp.2d 1294, 1354 (N.D. Ga. 2006) (citations omitted).

44. Editorial, *supra* note 38; *but see contrary* Hans A. von Spakovsky, *ID Laws Ensure Election Integrity*, USA TODAY, June 13, 2011.

45. FUND, *supra* note 15, 6–7. In fact, voters have to have their thumbprint certified by a scanner in the polling place in order to vote. *Id.*