



## 2018 Midterm Elections Preliminary Report

The 2018 midterms showed a historic and unprecedented level of determination by American voters to make their voices heard in elections. According to preliminary estimates, more than 116 million voters – 49.7% of the eligible voting population – cast a ballot this election. This marks the highest turnout for midterm elections in more than 100 years, just under the previous record of 50.4% in 1914, when the vote excluded women, African-Americans, and other people of color. The 2018 turnout rate is in stark contrast to the 2014 midterms that saw record low turnout, with only 36.7% of eligible voters casting a ballot.

Far too many voters in 2018 faced unnecessary, unreasonable, and deliberate obstacles that made voting more difficult, or for some, impossible. Over the last decade, 23 states have created obstacles to voting, including strict voter-ID laws, curbs on early voting opportunities, restrictions in voter registration, aggressive purges of voter rolls, and polling place closures and consolidations, among other measures. These laws and obstacles to voting, whether in the form of official policies, or in the form of harassment at the polls, have a disproportionate impact on certain voters, especially people of color, language minorities, low income voters, and naturalized citizens.

Amplifying the trend of restrictive voting policies and targeted voter harassment, the United States Justice Department abdicated its role as a defender of voting rights, and in some cases, supported laws that make voting unreasonably difficult. The 2018 midterms took place without the full protections of the Voting Rights Act of 1965 (VRA), as the U.S. Supreme Court's 2013 [decision](#) in *Shelby County v. Holder* (Shelby County) rendered Section 5 of the Act inoperable. Section 5 requires certain states and jurisdictions with histories of voting discrimination to seek federal approval for any proposed voting changes. The absence of a fully enforceable VRA and a fully functional Justice Department was notable as states with a history of voter suppression enacted higher rates of [voter list purges](#) and [restrictive voting policies](#).

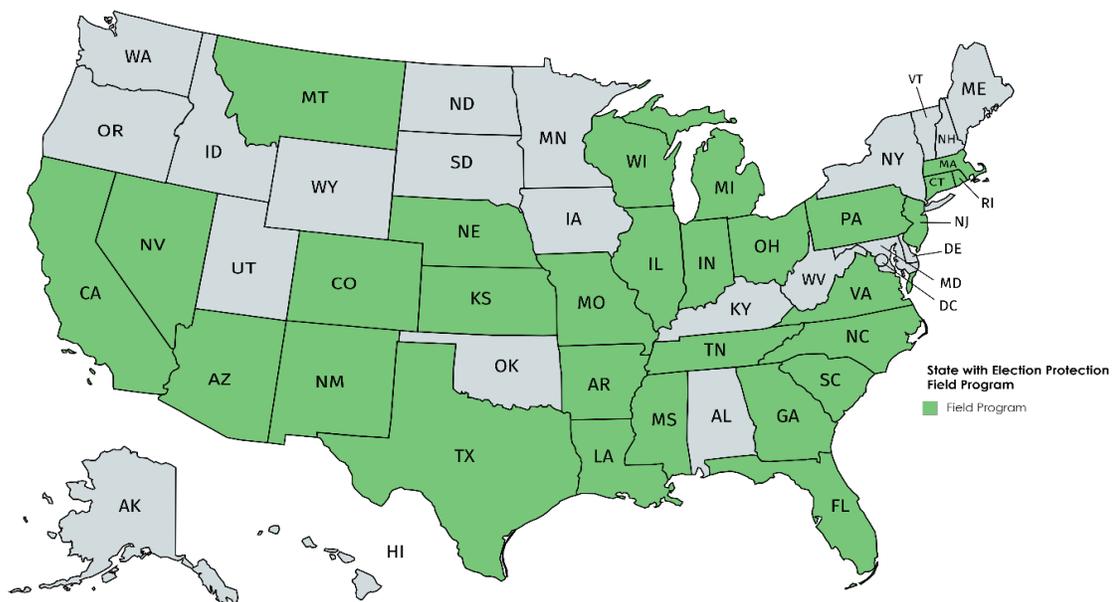
To ensure that all voters could make their voices heard, [Election Protection](#), the nation's largest nonpartisan voter protection coalition led by the [Lawyers Committee for Civil Rights Under Law](#), provided help through voter assistance hotlines in eleven languages and text message, social media monitoring, thousands of polling place monitors, voter education, advocacy and, when necessary, litigation. In the 2018 primary and general elections, more than 75,000 voters contacted Election Protection for assistance. This includes more than 31,000 on Election Day alone, a record number for a midterm election. These voters faced challenges finding the information they needed to vote, registering to vote, casting their ballot, and having their ballot count.

## Election Protection in 2018

Since 2001, Election Protection has been the go-to-resource for voters seeking comprehensive assistance in navigating and overcoming obstacles in the voting process. Election Protection is the country's largest and longest-running non-partisan voter protection effort, and is led by the Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee) and comprised of nearly 200 national, state and local voting rights advocacy [partners](#). The Election Protection coalition promotes and defends the right to vote through voter education, voter assistance hotlines in 11 languages,<sup>1</sup> SMS, poll monitoring, advocacy with election officials and lawmakers and, when necessary, litigation to remove barriers to the ballot box. Election Protection works year round, including throughout the primary season, early and absentee voting, and the post-election process when ballots are reviewed and run-offs are held.

### 30 Field Programs

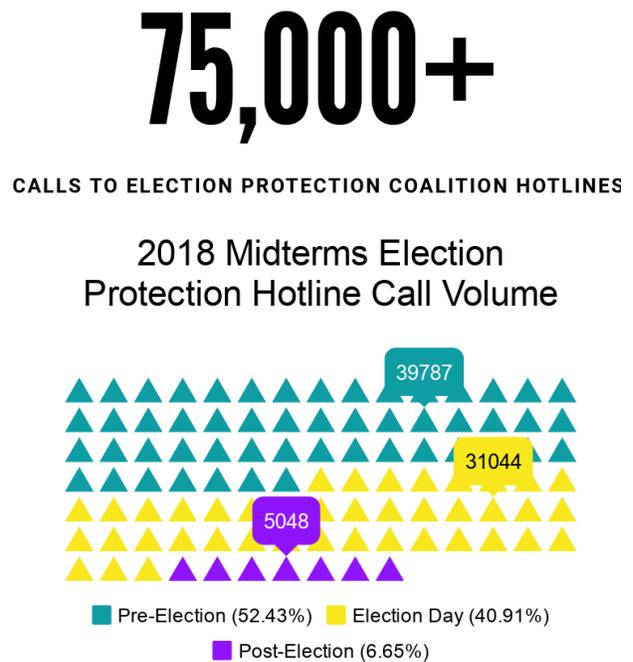
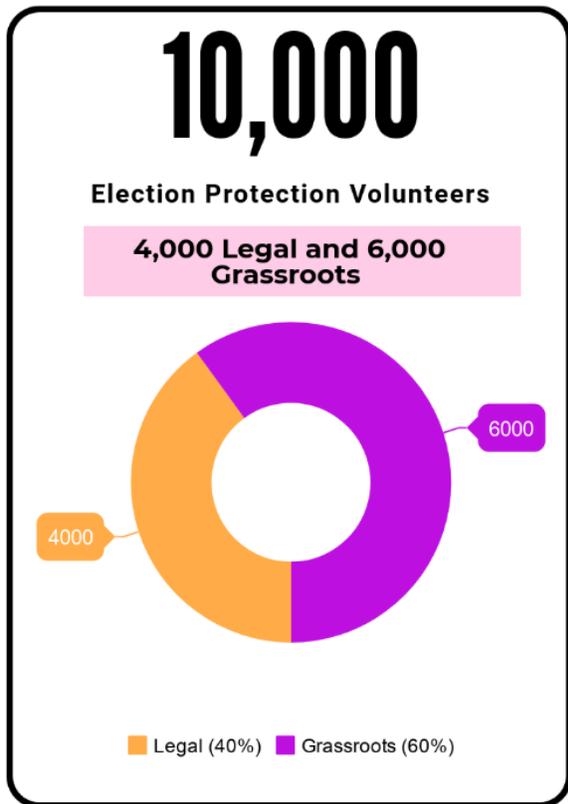
Poll monitors deployed in 30 states across the country



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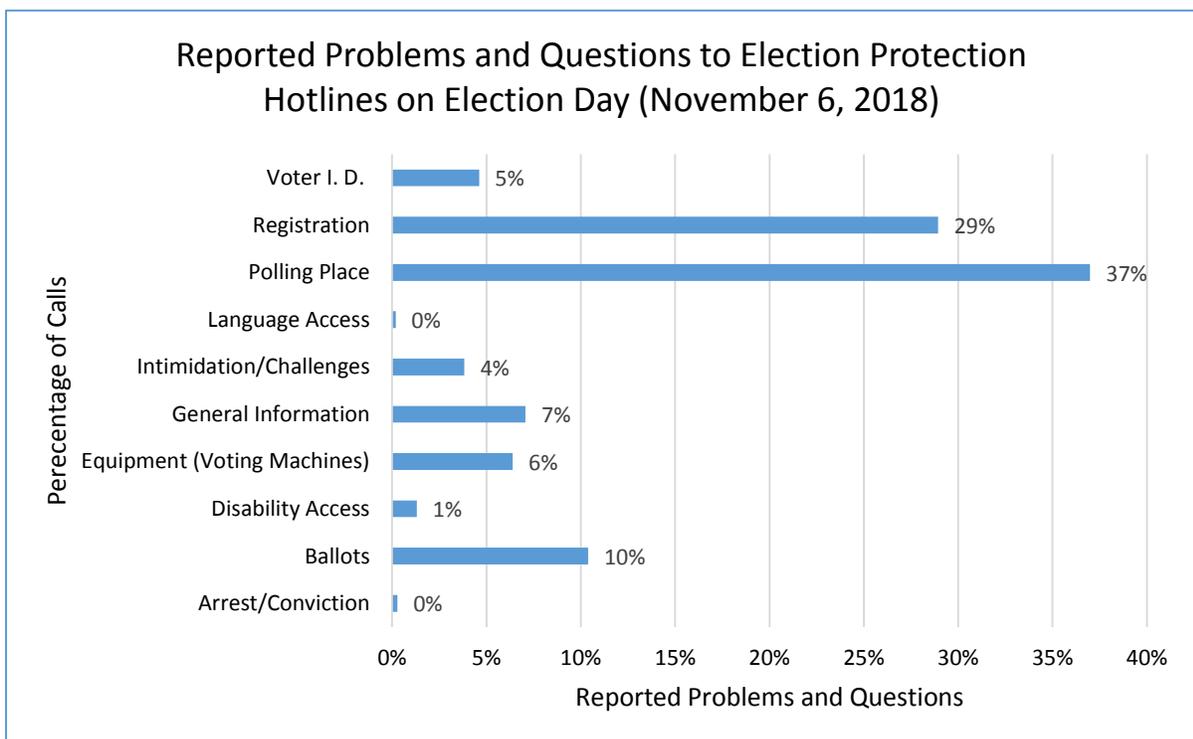
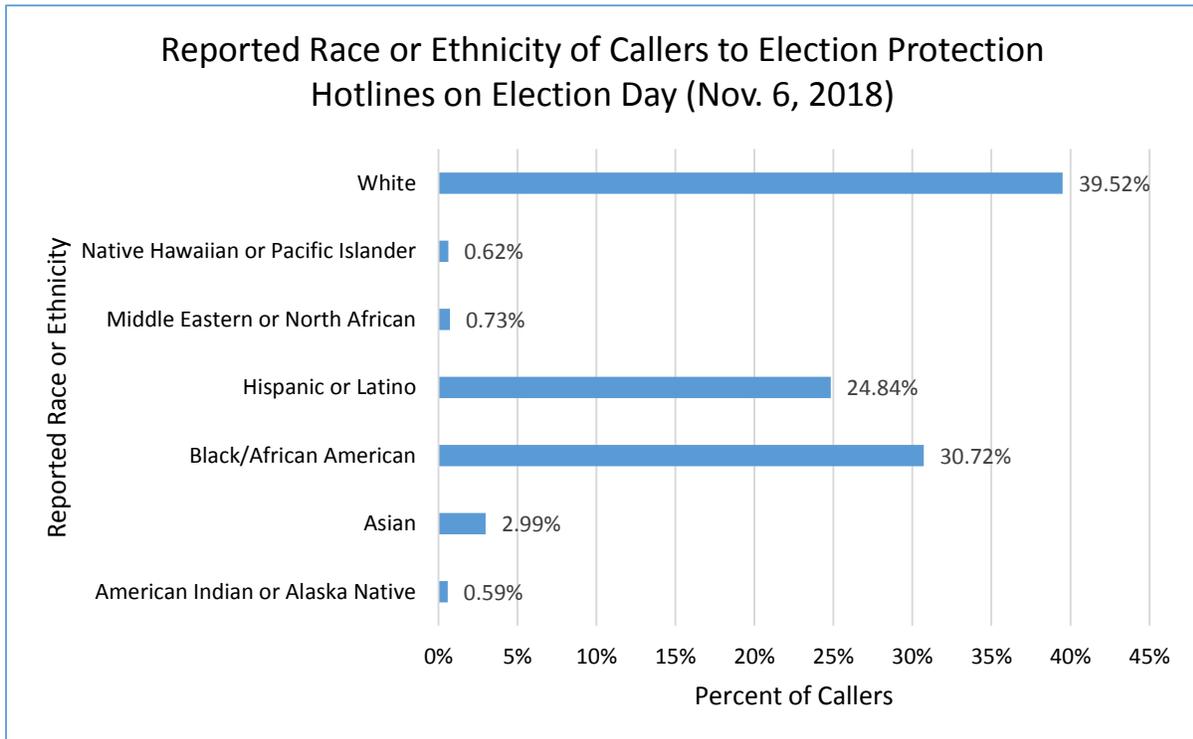
<sup>1</sup> Election Protection hotlines were available in English (Administered by the Lawyers' Committee); Spanish (administered by the NALEO Educational Fund); Asian languages including: Cantonese, Hindi, Korean, Mandarin, Tagalog, Urdu, and Vietnamese, administered by APIAVote and Asian Americans Advancing Justice-AAJC; Arabic, administered by the Arab American Institute; and American Sign Language, administered by the National Association of the Deaf.

On November 6th, Election Protection provided assistance to more than 31,000 voters through its suite of voter support hotlines, including a newly-launched texting hotline through which voters could receive help from trained volunteers and a team of social media monitors that tracked voting problems reported on various platforms and flagged misleading or intimidating content. In 2018 alone, nearly 10,000 volunteers assisted voters at polling places in 30 states and through Election Protection call centers. This number includes 4,000 legal volunteers, from national legal associations, the corporate legal community, law schools, and 6,000 grassroots volunteers.



Election Protection continued to support voters in the days and weeks following November 6<sup>th</sup>, as voters called the 866-OUR-VOTE hotline for assistance ensuring that their absentee or provisional ballots would be counted, with general questions, or to report problems they encountered at the polls. Election Protection volunteers also provided support to voters as they went to vote in run-off elections in Mississippi and Georgia.

## NATIONAL TRENDS SNAPSHOT



## TOP BARRIERS TO THE VOTE IN 2018

Based on initial analysis from the more than 31,000 calls and 1,700 text messages to Election Protection on November 6th, as well as tens of thousands of calls received in the weeks prior to and following election day, the top obstacles voters faced in the midterms included:

### Long lines and late openings due to staffing, materials and machine problems

Voters across the country—and particularly in Arizona, Florida, Georgia, Indiana, Michigan, Missouri, New York, New Jersey, North Carolina, Pennsylvania, and Texas—reported long lines at polling stations. Delays at the polls were caused by insufficient numbers of poll workers, ballot shortages, and faulty or not enough voting equipment. Many voters reported wait times of several hours and some had to leave without voting due to work responsibilities, physical limitations or disabilities. In some locations, like Maricopa County in Arizona, certain precincts opened significantly late due to problems with voter check-in machines. This mirrored problems seen in the state’s primary earlier in the year. Many precincts in Prince George’s County, Maryland ran out of ballots and voters were forced to wait for hours in lines and many left without voting.

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### *States with Highest Call Volume on Election Day*

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1. California
2. Texas
3. New York
4. Florida
5. Georgia
6. Pennsylvania
7. Missouri
8. North Carolina
9. Illinois
10. Michigan

### Poor poll-worker training

As in previous elections, voters reported problems regarding poll worker conduct and knowledge of election procedures. Election Protection received reports of poll workers improperly denying voters a regular ballot, refusing voter requests for a provisional ballot, rejecting valid forms of ID or requesting additional forms of ID contrary to state procedures, failing to provide or allow support to voters in need of assistance due to language or disability, and directing voters to the wrong precinct. Such failures to follow procedure were seen in jurisdictions across the country and demonstrate the urgent need for investment in poll worker recruitment and training to ensure that voters are not disenfranchised because of poll worker error.

### Problems with voter registration

Voters in Georgia, Pennsylvania, Texas, Kentucky, and other states reported confusion and problems with their registration status, including unprocessed registration applications and cancelled registrations. Election Protection received many calls from New York City voters who were seemingly purged from the rolls even though they had recently voted and had not moved, a problem also seen in the 2018 primary and 2016 elections in the state. In Georgia, thousands of voter registration applicants were assigned to “pending” status because of the state’s onerous “exact-match” law, which denies active voter status to voting-eligible Georgia citizens if the

information on their voter registration forms does not exactly match information in other government databases or incorrectly flags them as potential non-citizens.

## Faulty and insufficient voting equipment

Voters from Alabama, Arizona, California, Florida, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, and Virginia reported problems with voting equipment. Reports included: broken voter check-in machines or e-poll books which prevented or slowed the voting process; faulty voting machines that delayed voting; voting equipment delivered without power cords; broken accessible voting devices which prevented disabled voters from casting their ballot; and broken paper ballot scanners that slowed the voting process and worried some voters who thought their ballot might not be counted. In the most severe cases, faulty or insufficient equipment caused hours-long delays and resulted in many voters being unable to vote.

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### ***ELECTION PROTECTION IN ACTION:***

*On Election Day, Georgia's Gwinnett and Fulton counties reported widespread voting machine failures and precincts with an inadequate number of machines. In some instances, where there were machine problems, poll workers did not have paper ballots on hand. As a result of emergency litigation brought by Election Protection volunteer attorneys in Atlanta, and by the ACLU of Georgia with the NAACP Legal Defense Fund in Gwinnett County, voting hours were extended in six polling places, three in Atlanta and three in Gwinnett County, allowing many voters who were unable to vote earlier in the day the opportunity to cast a ballot.*

## Restrictive Voter ID Laws

Voters in Wisconsin, North Dakota, and Texas reported being turned away at the polls because they could not satisfy strict voter ID or residency requirements. Others said they had to return multiple times to their polling station to show additional forms of identification before they were allowed to vote. Voters in California, Illinois, and Michigan said poll workers demanded certain forms of identification not required by law. In Missouri, voters across the state reported that poll workers in their precincts required photo ID to vote, despite a last-minute court decision instructing poll workers to allow voters with other valid identity documents, like a voter registration card or utility bill, to cast a regular ballot.

## Problems with absentee ballots

Voters in several states reported delays in receiving their absentee ballots, which prevented them from voting. Others reported that their ballot was not received by election officials or was rejected for arbitrary reasons. Voters in Florida and Georgia reported that their ballots were rejected because their signature did not match other voter registration records or because they made minor mistakes completing the absentee ballot form. The Lawyers' Committee and coalition partners challenged the ballot rejection practices of several counties in Georgia, and courts ordered those practices halted which allowed ballots to be counted. In California, many voters reported problems with vote-by-mail designations including confusion about their status, not receiving ballots, or difficulty voting in person due to poll worker confusion.

## Intimidation & deceptive practices

Voters reported incidents of intimidation at polling stations in Arizona, California, Florida, Missouri, Michigan Mississippi, North Dakota, Pennsylvania, and Texas. Voters of color and voters who are not native English speakers reported incidents where they were asked about their citizenship status, race, and length of stay in the US by poll workers, poll watchers or unauthorized loiterers when attempting to vote. Election Protection also tracked misinformation and intimidation on social media and logged and reported deceptive practices and threats.

## Lack of voter assistance

Voters who required assistance, whether due to language needs or a physical disability, reported problems voting. Voters said that certain precincts in Florida, Texas, Pennsylvania, and California failed to provide language assistance, either by lacking translators or printed language materials, or, in some cases, denying voters' right to be assisted by a person of their choice. Voters with physical disabilities reported additional barriers, including being forced to wait for hours for broken voting accessibility devices to be repaired. Others faced significant delays in curbside voting, inaccessible polling places, inability to wait in long lines, and denial of an assistant of their choice to help them cast a ballot.

## Overuse and Lack of Support of Provisional ballots

Voters in many states reported that they voted provisional ballots. In particular, voters in states with aggressive voter purge policies, like New York and Georgia, reported that they had to vote a provisional ballot when their names were not found on the voter rolls. In the days following November 6<sup>th</sup>, Election Protection received thousands of calls from voters in Georgia and Florida, many of whom were forced to cast provisional ballots and now needed assistance to ensure their ballot was counted. These voters had to race against tight deadlines to “cure” their ballot even as election officials in many counties struggled to share up-to-date information with voters about the status of their ballot and the steps they needed to take.

# ROOT CAUSES OF VOTING OBSTACLES

The obstacles reported by voters on Election Day demonstrate the impact of burdensome and arbitrary voting laws and policies, poor investment in election infrastructure, and a tenor of racism and xenophobia in local communities as well as on social media platforms.

## Burdensome and arbitrary voting laws and policies

Burdensome voting laws and policies deny voters access to the ballot. Voters living in states or counties that pass restrictive voting laws or enact arbitrary policies face more difficulty voting than those in other states. Moreover, states with a history of racially motivated voter suppression, which

are no longer subject to the Voting Rights Act Section 5 federal oversight, are passing these laws at a higher rate. Approximately 24% of the non-white voting age population live in these states and thus are more vulnerable to discriminatory voting practices.

### *Voter List Purges*

A number of states, including Georgia, Texas, Indiana, and New York engaged in aggressive purging of the voter rolls. In 2016, more than 200,000 New York City voters were improperly removed from the rolls, a practice challenged by the Lawyers' Committee and Latino Justice. Despite a consent decree ordering the New York City Board of Elections to comply with the National Voter Registration Act, Election Protection continued to see signs of problems in 2018. During the September 13th New York primary, Election Protection received calls from more than 100 voters, many of whom were frequent voters who had not moved, who were unable to cast a regular ballot after being told they were not registered. Signs of aggressive purging continued in New York City into the November midterms, with some voters reporting that they had been purged since voting in the September primaries.

### *Exact Match*

Other states passed registration laws that created undue burdens for voters. In Georgia, more than 53,000 voter registration applicants, most of whom were African Americans, were placed into "pending" status if information on their voter registration forms did not exactly match information in other government databases under Georgia's "exact match" voter registration law. The "exact match" process also incorrectly flagged Georgians who are United States citizens as potential non-citizens because the process compares the applicants' voter registration form information against outdated citizenship data in the state's driver's license records. Some applicants were incorrectly flagged as non-citizens even when they had submitted documentary proof of citizenship with their voter registration form. As a result of a federal court order entered in litigation challenging the "exact match" process brought by the Lawyers' Committee and partners, the Court enjoined the state's practice of mandating that proof of citizenship documents be produced only to deputy registrars, who are frequently not stationed at polling places. Instead the court ordered that proof of citizenship documents be produced to poll managers, who are required to be on-site at the polls.

### *I.D. Requirements*

Just as registration restrictions may block certain citizens from the election process, states with strict voter ID or residency requirements keep eligible voters from casting their ballot, or require certain voters to invest inordinate amounts of effort, time, and expense to have their vote counted. In North Dakota, voters were required to provide a state ID showing a residential address, which Native American voters living on reservations often lack. And in Missouri, even though a court ruled that election officials could not require voters to show a photo ID if they had another allowable form of ID, such as a utility bill or voter registration card, poll workers in many precincts turned voters away, made them vote a provisional ballot, or asked them for additional forms of ID if they did not have a driver's license.

### *Absentee Voting*

Absentee ballot policies also created burdens for voters in 2018. Some states employed arbitrary practices that punish absentee voters for minor mistakes and denied their right to have

their vote counted. Several states allowed election officials with no prior training in signature verification to deny absentee ballots if they believed the signature on the ballot did not match the signature on file. In Georgia and Florida, courts ordered emergency relief blocking this practice, requiring that voters have an opportunity to provide verification so that their absentee ballots counted. Additionally, Gwinnett County, Georgia, rejected a significant number of absentee ballots, a disproportionate number of which were cast by minority voters, because the voter failed to write their year of birth on the outside of the absentee envelope. The Lawyers' Committee and Election Protection partners successfully challenged this practice.

## Lack of Planning and Investment in Election Administration

Voting rights advocates and elections experts have lobbied since 2000 for a serious investment in election infrastructure, a call that was repeated after concerns about cyber-security emerged following the 2016 election. While some states have advanced election infrastructure reforms, enhanced, secured and modernized election equipment, and have revamped poll worker recruitment and training, many states still struggle to properly plan and invest in election administration. This failure places a demonstrable burden on voters who endure long lines, inconsistent or inaccurate direction from poll workers, and other obstacles, simply to cast a ballot. These challenges are acutely felt by voters with disabilities, young voters, and low-income voters who may lack the resources or ability to overcome or “ride out” these obstacles.

While this mid-term was in many ways an anomaly in terms of voter turnout, election officials failed to heed lessons and warning signs presaged by problems in the primaries. Despite high turnout in the primaries and the predictions of elections experts that there would be high turnout in the general election, many jurisdictions failed to adequately prepare for the record-breaking number of voters who turned out to vote in November. This failure was evidenced by the fact that many counties and precincts ran out of ballots on Election Day, and by the countless polling stations that were understaffed and undersupplied with voting machines. During the August primary, more than 40 precincts in Maricopa County, Arizona opened significantly late due to problems with voter check-in machine set up. Despite public attention to this issue and an independent review of the voter problems in the primary, the issues arose yet again during the November election and impacted voting in a number of polling stations and vote centers. The problems in Maricopa County mirrored the lack of planning and preparation seen around the country that fueled long voting lines and prevented voters who were unable to invest hours of their day from casting a ballot.

While the federal government and a number of states took serious steps to strengthen elections security in 2018, in far too many states problematic election equipment delayed the voting process and threatened voters' confidence. Aging equipment broke down or was mis-calibrated, election officials were ill-equipped to fix problems immediately, and, in many locations, there were no contingency plans in place to ensure that the voting process could continue in the event of equipment malfunction.

Ultimately, a number of the problems seen on Election Day relate back to poll worker recruitment and training. While many poll workers around the country are dedicated to helping run elections so that voters can make their voices heard by casting a ballot, a large number of these workers are

improperly trained. Many jurisdictions simply failed to recruit enough poll workers, which led to serious delays and problems at the polls. Poll workers who are not properly trained are a detriment to the voting process; they are more likely to disseminate inaccurate information, deny mandated voter assistance, demand IDs that are not legally required, and improperly use or withhold provisional ballots. Most concerning, some poll workers who were not properly vetted or supervised may have engaged in inappropriate conduct, such as electioneering, or, worse, directly targeting and intimidating certain voters based on their race or language ability.

## Racism and Xenophobia

Racism and xenophobia are continually present in our elections and seriously impact voters, election officials, and candidates of color. Voters of color in 2018 experienced intimidation and harassment by poll watchers or loiterers as they went to cast their ballot. Election Protection received reports that voters were told not to speak in a language other than English, and were questioned about their citizenship or length of time in the country by poll workers. These experiences created an atmosphere of fear around voting and ultimately made the voting process more difficult for voters of color and non-native English speakers.

Beyond the polling place, misinformation, intimidation, and threats, many of which were racially or ethnically motivated, thrived on social media and other technology platforms. In the week after Election Day as Florida ballots were still being counted, Election Protection discovered Facebook and Twitter posts “doxxing” Brenda Snipes, the Supervisor of Elections of Broward County, and Susan Bucher, the Supervisor of Elections of Palm Beach County.<sup>2</sup> Both are women of color. Election Protection [immediately reported](#) this content to Facebook and Twitter, which promptly removed it from their sites. Election Protection also notified Ms. Snipes and Ms. Bucher directly and reported the incident to the FBI and U.S. Department of Justice. These incidents reflect a climate of racial animosity and demonstrate the continued need for social media platforms to strengthen their policies to ensure they do not amplify racism and xenophobia in the democratic process.

## MOVING FORWARD

As the 2018 elections process winds down and run-offs are completed, Election Protection will issue a final report that includes state-specific reports on the 2018 midterms. Election Protection partners will continue to engage with election officials and lawmakers to advocate for policies and practices that remove barriers to voting and ensure that all voters can exercise their right to vote without undue burden.

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<sup>2</sup> “Doxxing” is the practice of publicly exposing personal information on the internet about an individual and has become a frequent form of harassment and intimidation. *See, e.g.*, Decca Muldowney, *So What the Hell Is Doxxing?* ProPublica, November 4, 2017, <https://www.propublica.org/article/so-what-the-hell-is-doxxing>

## About Election Protection

Election Protection is the nation's largest nonpartisan voter protection coalition of more than 100 partners, led by the Lawyers' Committee for Civil Rights Under Law. Through its suite of hotlines: 866-OUR-VOTE (866-687-8683) administered by the Lawyers' Committee; 888-VE-Y-VOTA (888-839-8682) administered by NALEO Educational Fund; 888-API-VOTE (888-273-8683) administered by APIAVote and Asian Americans Advancing Justice-AAJC; and 844-YALLA-US (844- 925-5287) administered by the Arab American Institute – a dedicated team of trained legal and grassroots volunteers help all American voters, including traditionally disenfranchised groups, gain access to the polls and overcome obstacles to voting. The coalition has more than 100 partners—including Advancement Project, Asian American Legal Defense and Educational Fund, Brennan Center for Justice, Common Cause, League of Women Voters of the United States, NAACP, National Bar Association, National Action Network, National Coalition on Black Civic Participation, State Voices, Rock the Vote and Verified Voting Foundation—at the national, state and local levels and provides voter protection services nationwide. For more information about Election Protection and the 866-OUR-VOTE hotline, please visit: [www.866ourvote.org](http://www.866ourvote.org).

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