I. Introduction

The United States has a particularly ugly history with racial discrimination, especially at the voting polls. Until relatively recently, states around the nation would pass blatantly racially discriminatory measures to disenfranchise minority voters. With the passage of the 1965 Voting Rights Act (VRA), many overtly discriminatory practices in voting came to a swift halt. The VRA outlined a formula that would identify states that have had histories of attempting to disenfranchise minority voters. Such states had to receive “pre-clearance” from either the United States Attorney General or the United States Federal District Court for the District of Columbia if they intended to implement any kind of change to voting procedures. The VRA led to marked improvements in minority turnout and the election of minority candidates across historically discriminatory states. In 2013, however, the VRA’s constitutionality was reviewed by the United States Supreme Court in *Shelby County v. Holder*. The Court held the law’s coverage formula to be unconstitutional, noting that it had not been updated in over forty years and that states ought to enjoy relatively equal sovereignty unless there is some pressing, legitimate reason to violate that principle. The Court noted that because voting turnout levels between whites and minorities had reached near-parity in covered states, there was little justification to continue to utilize an outmoded formula to treat the states disparately.¹ Almost immediately after *Shelby County*, states that were previously covered by the VRA formula began to enact voting legislation that addressed a wide array of topics, including voter identification.

Although many of the states previously covered by the now-defunct section four of the VRA passed voter identification statutes after *Shelby County*, such laws existed in other states

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prior to the ruling. In theory, voter identification laws—statutes that require voters to present some form of valid government-issued identification at the polls—seem like a slam-dunk policy to reduce voter fraud. In a number of states, including Wyoming, all that is required to receive a ballot at the polls is to state one’s name to the election official. Under that kind of system, the potential for fraud is readily apparent. Reducing voter fraud is indeed a valiant goal; the American people ought to have the right to elect their representatives free from concern that individuals throughout the nation are unduly influencing the outcome of those elections. Voter identification laws seemingly assist in accomplishing this goal. However, there is a significant issue with requiring identification at the polls: many United States citizens lack the kind of identification that is normally allowable under such laws. Understanding the effects of voter identification laws requires an analysis of their history in the United States, including the current state of such laws. Next, voter identification laws that have been challenged in the courts will be appraised. Following that will be a discussion of the various effects of voter identification laws on elections throughout the nation. This will be preceded by a review of the risks and rewards of voter identification laws. Finally, the future of voter identification laws will be examined. From the research that will be presented, it will become clear that voter identification laws do not statistically significantly reduce voter fraud and at the same time serve to disenfranchise voters that typically support and cast votes for the Democratic Party.

II. History of Voter Identification Laws

The history of voter identification laws in the United States extends back to the 1950’s. According to the National Conference of State Legislatures (NCSL), at the start of that decade, South Carolina passed an identification law that required voters to present some kind of
documentation at the polls before voting. South Carolina’s law did not require a document with a
photo on it; it simply required a voter to present a document with his or her name on it. In the
decades that followed, Hawaii, Texas, Florida, and Alaska adopted provisions that requested
documentation at the polls. In all of these states, if voters did not have the requested
identification, they would be allowed to cast ballots regardless. In 2005, the bipartisan
Commission on Federal Election Reform recommended that more states adopt voter
identification laws. Georgia and Indiana soon adopted what is known as “strict voter
identification laws,” which required voters to present identification in order to cast a ballot. If
voters did not have the required identification, they would be allowed to cast a provisional ballot
that would only be counted if they could return and provide the documentation within a certain
number of days following the election.2

With the history of voter identification laws discussed, the conversation can now turn to
the current state of voter identification laws in the United States. For the purposes of discussing
the impact of voter identification, it is pertinent to make an important distinction regarding the
types of voter identification laws that exist. The NCSL notes that there are five different types of
voter identification laws. The first type is no requirement of identification. The second and third
types of identification laws—known as non-strict statutes—require that election officials simply
request some type of identification or photo identification. The fourth type of identification law
requires voters to present a non-photo identification before casting a ballot. The fifth type
requires voters to present a photo identification at the polls. The NCSL also reports that as of

2018, ten of the fifty states have some form of strict identification requirement in place. In most states with non-strict identification laws, voters without identification may cast provisional ballots that will be reviewed at the close of the election. Typically, election officials will count these ballots by determining if the voter was registered and eligible to vote at the time the ballot was cast. If that is the case, the ballot is counted and the voter does not have to do any more work to ensure their ballot is not thrown out. The focus of this paper will investigate the effects and the future of strict forms of voter identification requirements, so although many states request some form of identification at the polls, they will be mostly left out of the discussion.

Table 1

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Understanding the current state of these laws requires a brief discussion about why there is such variation in the enactment of these laws throughout the nation. The fact that the types of voter identification laws run the gamut from non-existent to extremely stringent is worth investigating further. Previous studies have suggested that mere Republican strength in a state has been a determinative factor in the enactment of voter identification laws. However, that conclusion is a bit misguided. For example, it does not explain why Wyoming—a highly conservative state—has not enacted any identification requirement whatsoever as of this writing. Instead, the passage of such laws have followed a switch to Republican control in a state’s legislature and governorship.\(^5\) Essentially, by switching to Republican control in the legislature, the governorship, or both, a state is more likely to see the modification or enactment of voter identification laws. This helps explain why Wisconsin—a fairly moderate state—has the most rigid form of identification laws in place. The implications of those findings are indeed interesting; it suggests that stalwart Republican states may not change or enact voter identification laws, although that cannot be stated for certain.

Republican turnover in states that were controlled by Democrats, while important, is not necessarily the only factor that determines the passage of strict voter identification laws. After all, Wyoming switched from a Democratic governor to a Republican governor in 2011 but saw

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no change in its existing voter identification laws. Recent studies that have examined states that have enacted strict voter identification laws suggest that a state’s overall electoral competitiveness—that is, whether there is relative parity between the parties in any given election—is also a decisive factor when considering whether strict ID laws will be enacted. In fact, “the competitive context of a state appears to drive lawmakers' support or opposition to voter ID laws…” Thus, a picture begins to form as to why certain states enact strict ID laws while others do not. If a state is electorally competitive, a switch from Democratic control to Republican control can be a good determination when considering the chance that strict voter laws will be enacted. This helps elucidate the apparent confusion that can be caused by examining states like Wyoming and Wisconsin. Whereas Wyoming did switch from a Democratic governor to a Republican governor the very same year that Wisconsin did, only Wisconsin is an electorally competitive state, and thus, strict ID laws were only enacted in that jurisdiction.

So-called strict voter identification laws have come under fire in the United States courts. In 2005, Indiana pioneered the modern form of voter identification law when it passed a statute that required voters to present a photo identification at the polls in order to cast a ballot. The law was challenged and was subsequently decided to be constitutional by the Supreme Court in 2008 in *Crawford v. Marion County Election Board*. The Court’s opinion, headed by Justice Stevens, held that Indiana seeks to achieve a legitimate goal in reducing voter fraud in elections, which will have the effects of undoing some of the bloat caused by poorly kept voter registration records and restoring voter confidence in the electoral system. Reducing voter fraud and thereby

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restoring voter confidence is a legitimate state goal. The Court also noted that although requiring voter identification at the polls may produce a burden on some prospective voters to obtain a passable ID, that the state allows for great leniency removes some of that burden. The Court further held that the provisions of the law did not “represent a significant increase over the usual burdens of voting.” As such, the law was upheld in its entirety.

In 2013, North Carolina enacted a sweeping election reform statute that required voter identification, but eliminated various types of non-motor vehicle identification. It also lessened the period of early voting by one week, eliminated same-day registration, eliminated out-of-precinct voting, and eliminated preregistration by young adults. Judge Diana Gibbon Motz of the United States Court of Appeals for the Fourth Circuit noted that African American voters tended to disproportionately utilize non-motor vehicle identification, early voting, same-day registration, out-of-precinct voting, and preregistration by minors. With this information, the court utilized a test outlined in Village of Arlington Heights v. Metropolitan Housing Development Corporation. The court considered the disenfranchising effect of the totality of the law’s provisions, North Carolina’s history of racial discrimination in voting, and the motivation of the state legislature to disenfranchise voters who would likely vote for a different party. In doing so, the court struck down the aforementioned provisions in North Carolina’s voting statute as unconstitutional.

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7 Crawford v. Marion County Election Board, 553 U.S. at 183-184 (2008).
8 Crawford v. Marion County Election Board, 553 U.S. at 185(2008).
10 Id. at 204.
11 Id. at 204.
In 2016, Virginia found its voter identification laws in the crosshairs of the law in *Lee v. Virginia State Board of Elections*. In that case, the plaintiffs contended that Virginia’s strict voter identification law imposed undue voting burdens on minorities, that the law’s intent was to discriminate, and that even if the law was enacted with no discriminatory purpose, its effects are discriminatory in nature. The United States Court of Appeals for the Fourth Circuit held that Virginia found it necessary to enact voter identification laws under the legitimate state concerns the Supreme Court outlined in *Crawford*. The court noted that Virginia took a number of steps to ensure that the burdens imposed by the law were negligible. For example, the state allows myriad forms of identification absent a photo ID. The state also allowed citizens to cast provisional ballots with a chance to follow up within three days. It also provided citizens that lacked an acceptable form of ID with free identification, along with assistance to those that found it difficult to obtain the free ID. The court looked at the totality of these circumstances and decided that the Virginia strict identification law was not discriminatory in purpose or effect, and that it did not pose an undue burden on minority individuals that wanted to vote. In crafting the strict voter identification law, Virginia narrowly tailored that law so as to fit under the guidelines set in *Crawford*.

The body of case law on voter identification statutes is relatively underdeveloped thus far. The case law that does exist, however, roughly outlines identification requirement procedures that are permissible and impermissible. For example, *McCrory* outlined the impermissibility of a state to target and eliminate the voting methods preferred by a group of voters in order to provide a distinct advantage to one party. This is contrasted with the permissible strict identification law.

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13 *Id.* at 592.
found in *Lee*. In that case, the court held that there were enough mitigating factors that accompanied the enactment of such a law that it did not burden a class of voters and was unlikely to benefit one party over another. Further, as a result of *Crawford* and *Lee*, states may require photo identification at the polls if they also allow various avenues by which voters can cast a ballot without identification at the polls, so long as those voters provide identification in the days following the election. Arguably the most important part of *Crawford* is the Court’s determination that Indiana’s strict voter identification law did not represent a substantial burden to voting that did not already exist. That language will become important as the effects of voter identification laws are scrutinized.

### III. Effects of Voter Identification Laws

Reduction of voter fraud and relatedly increasing the populace’s confidence in elections are often given as reasons for the adoption of strict voter identification laws. In *Crawford*, the Supreme Court upheld these as legitimate state concerns, even if the probability of voter fraud in a given state is exceedingly low.\(^{14}\) Upon close inspection of the effects of voter identification laws, two things become readily apparent. First, it seems as though the possibility of voter fraud in elections is highly overblown. Take the most recent presidential election for example. In a recent study, David Cottrell, Michael C. Herron, and Sean J. Westwood noted that their findings were “consistent with various state-level investigations conducted...all of which have failed to find any evidence of widespread voter fraud in the 2016 General Election.”\(^{15}\) Moreover, Justin Levitt published a comprehensive analysis of all voter fraud incidents in the United States

\(^{14}\) *Crawford v. Marion County Election Board*, 553 U.S. at 184 (2008).

between 2000 and 2014. Levitt included in his analysis any credible voter fraud claims, not just those that were charged or prosecuted. He also included data from general, primary, special, and municipal elections in that time period. Levitt concluded that despite over one billion ballots being cast in just primary and general elections alone, there were 31 credible voter fraud claims anywhere in the United States between 2000 and 2014.\textsuperscript{16}

The second and more surprising effect of voter identification laws on the incidence of fraud is that they paradoxically could actually increase the chance of voter fraud in any given election. Michael D. Gilbert explains how this could be the case by positing two scenarios for consideration. The first scenario consists of an election with no voter identification laws. In this scenario, Gilbert imagines Candidate A for Office X receives 13 lawful votes and his opponent, Candidate B, receives 10 lawful votes. Gilbert then supplies Candidate B with two unlawful votes. Candidate A wins the election 13-12 despite fraudulent votes counting for roughly 16\% of his opponent’s received votes. The second scenario consists of an election with strict voter identification laws. Gilbert again imagines Candidates A and B for Office X. This time, however, Gilbert imagines that both candidates receive nine lawful votes because of the depressed voter turnout due to the identification law. Gilbert then assigns one fraudulent vote to Candidate B, which is lower than the amount Candidate B received in the first scenario due to the presence of fraud deterrence measures. In this scenario, Candidate B wins the election fraudulently, 10-9.\textsuperscript{17}

Gilbert’s argument hinges on one critical assumption: that voter turnout is indeed depressed by the presence of voter identification laws. The research that will be presented will


back Gilbert’s claim that voter identification laws do in fact depress voter turnout. Because that is the case, his scenario importantly proves that voter identification laws can in fact cause the opposite of their intended effect. That is important because if the justification for the existence of these laws rests on their ability to reduce fraud, then the fact that they could increase fraud does not bode well for them.

The Supreme Court also recognizes a state’s interest in increasing the electorate’s confidence in the voting process as a legitimate reason for enacting voter identification laws. The argument goes that if people simply believe that voter fraud is being reduced by the existence of voter identification laws, then they will have more confidence in the system. Stewart, Ansolabehere, and Persily examined the effects of voter identification requirements on voter confidence in states with and without such laws. The authors noted that “the presence of a photo ID requirement does not affect the public’s belief in the frequency of voter fraud, nor does it promote voter turnout.”18 This is important evidence because it seems to undermine the general consensus that the presence of voter identification laws increases voter confidence in the election system irrespective of whether the laws actually reduce voter fraud. The combination of this study with the fact that there are very few cases of voter fraud in the United States and the fact that voter identification laws could actually increase the incidence of voter fraud works against the state concerns that the Supreme Court outlined as legitimate reasons for enacting voter identification laws.

With the benefits, or lack thereof, of voter identification laws fleshed out, the discussion can now turn to the various effects of voter identification laws throughout the nation. The first

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task that must be undertaken when discussing voter identification laws is to take at least a
cursory glance at the number of Americans that currently possess the requisite ID. Although not
having the requisite identification to cast a ballot is not necessarily completely inhibitive, it does
represent yet another burden to voting that some voters may calculate as being too great to
hurdle. According to Charles Stewart III, no matter how the possession of identification is
measured, “blacks and Hispanics are generally more likely to lack identification than whites.” 19
Stewart’s findings are not an outlier either. A 2006 Brennan Center study concluded that roughly
11% of all Americans lack the kind of identification allowable at the polls. 20 Again, simply not
having the required identification card does not spell doom for voters. It does, however, create an
added barrier for some voters, and statistically speaking, those voters are more likely to be
minorities.

In 2009, Jason Mycoff, Daniel Wagner, and David Wilson reviewed the effects of voter
identification laws throughout the nation. Among the study’s many findings, the most important
may be that states with strict voter identification laws “did not significantly reduce the
probability of individual-level turnout.” 21 Moreover, the authors controlled for factors such as
identification requirement, days between a registration deadline and the election, a state’s laws
changing between elections, type of electoral race, spending by candidates, and social issues on
the ballot. With these factors accounted for, the authors noted that “the aggregate turnout results
reveal no significant relationship between aggregate turnout and voter-ID laws.” 22 These results

20 Sari Horwitz, “Getting a photo ID so you can vote is easy. Unless you’re poor, black, Latino or elderly,” last
modified May 23, 2016, https://www.washingtonpost.com/politics/courts_law/getting-a-photo-id-so-you-can-vote-
is-easy-unless-youre-poor-black-latino-or-elderly/2016/05/23/8d5474ec-20f0-11e6-8690-f14ca9de2972_story.html?
utm_term=00007c87b67b.
21 Jason D. Mycoff, Michael W. Wagner, and David C. Wilson, “The Empirical Effects of Voter-ID Laws: Present or
seemingly strike at the heart of the argument against voter identification laws. If it is indeed true that voter identification laws do not negatively impact voter turnout, then even if there is no tangible benefit of enacting these laws, there is also no tangible detriment to enacting them.

Corroborative evidence for the results in the Mycoff et al. study comes from an examination by Daniel Hopkins concerning the effects of Virginia’s strict voter identification law on possible disenfranchisement. Hopkins notes that in 2014, at least 474 Virginia residents attempted to cast ballots but were unable to because they lacked the correct photo identification. Hopkins writes that of these 474 individuals, 252 were able to cast provisional ballots that were accepted. The result is that 222 votes were not counted because of Virginia’s strict identification law.23 Any amount of disenfranchisement is abhorrent, but realistically speaking, 222 votes out of hundreds of thousands is extremely statistically insignificant. The same study also concluded that in just the state of Virginia “turnout actually increased in places where more active registered voters lacked a driver's license.”24 In short, the Mycoff and Hopkins studies present a formidable body of evidence that seems to counter the notion that voter identification laws present a significant barrier to participating in elections.

The glaring issues with the Mycoff and Hopkins studies is that the former is nearly a decade old and the latter focuses on one state only. In 2009, the same year that Mycoff et al. published their findings, Matt Barreto, Stephen Nuño, and Gabriel Sanchez analyzed the impact of Indiana’s strict voter identification law on the Indiana electorate. They found that of registered voters that possessed the proper identification, there was a 4.5% gap between registered voters

identified as Republican and those identified as Democrats. That rift is not massive, but elections have been decided by much less than a 4.5% gap. Barreto et al., much like Hopkins, take a narrow glance at one state and reveal significant issues with voter identification in that state; namely, that there is a statistically significant gap between rates of Republicans and Democrats that have the proper identification.

Voter identification laws can be administered in a biased manner such that what may be a neutral law on its face now becomes a discriminatory practice through no fault of the legislators. It is imperative to remember that voter identification requirements at the polls are ultimately administered by human beings. Even if a law was written to be facially and functionally racially neutral, there is a chance it may not be applied that way. After the 2012 general election, a survey conducted among Americans under the age of thirty found that “young black voters were ten percentage points more likely than young white voters to be asked for ID in states with photo ID laws.” This is important because part of the justification of voter identification laws rests on their ostensible neutrality. It may very well be the case that all races are impacted equally by the wording of a voter identification statute, but in practice, and in administration, these laws clearly impact races of voters differentially. Further, this kind of disparate treatment among different races of voters occurs in states with strict voter ID laws. During the 2006 midterm elections poll workers in Dekalb County, Georgia—a state that had a strict voter identification law enacted since 2005—supposedly asked for identification from black voters, but not from white voters.27

This is especially alarming because this means that poll workers in at least one instance blatantly ignored a law mandating them to ask everyone for identification.

In 2014, the nonpartisan Government Accountability Office (GAO) released its report on state voter identification laws. GAO studied two states with strict voter ID laws—Kansas and Tennessee—and compared them to Alabama, Arkansas, Delaware, and Maine. Those four states did not change their voter identification requirements between the 2008 and 2012 general elections. In selecting Kansas and Tennessee, GAO’s study controlled for “other factors present in their election environments that may have significantly affected turnout.” Even after controlling for these factors, GAO noted that voter turnout among all eligible registered voters decreased in Kansas by 1.9 to 2.2 percentage points and by 2.2 to 3.2 percentage points in Tennessee. The report concluded that turnout reductions in Tennessee and Kansas “were attributable to changes in those two states’ voter ID requirements.”

Hajnal et al. added to the findings of the GAO report with their 2017 study on the effects of minority turnout in strict voter identification states. The study controlled for factors such as state electoral laws, campaign differences, and individual traits. Hajnal and his cohort concluded that in primary elections in states with strict voter identification laws enacted, strict ID laws “could be expected to depress Latino turnout by 9.3 percentage points, black turnout by 8.6 points, and Asian American turnout by 12.5 points.” Hajnal et al. included an analysis of general election turnout in states with strict voter ID laws and came to roughly the same conclusion. The gap between minority turnout and non-minority turnout in general elections

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occurring in states with strict ID laws is statistically significantly larger than in states without those kinds of laws.³⁰

Hajnal et al. conceded that it is entirely possible that minorities are turning out in low rates in these states due to the fact that the states may be Republican-dominant. Minorities tend to vote for the Democratic Party, so it stands to reason that Democrats—white and non-white—would turn out at lower rates in predominantly Republican states. To see if this could account for the lower turnout in these states, Hajnal et al. examined the turnout rates between just white and non-white Democrats. The authors noted that if turnout rates among minority Democrats are significantly lower than rates for white Democrats in these states, the presence of Republican dominance is unlikely to be the cause. That is exactly what the study found. In fact, in running the analysis with only Democrats, the authors still found that “Latino, Asian American, and multiracial American turnout is significantly more likely to be depressed by voter ID laws than white turnout.”³¹

The Hajnal study has come under fire since its release. In 2018, Grimmer et al. published a response to the Hajnal study claiming that there were significant errors present in the way Hajnal et al. came to their conclusions. Specifically, Grimmer et al. noted that the Hajnal study utilized the Cooperative Congressional Election Surveys (CCES) from 2006 to 2014 to conduct its research. The problem with using this survey to estimate state-level data, according to Grimmer and his colleagues, is threefold. First, national surveys such as the CCES are unlikely to have respondents from smaller states. Second, the kind of voter that would likely lack a voter ID is unlikely to participate in an opt-in survey like the CCES. Third, using the CCES over time

leads to problems “because the criteria used to link survey respondents to registration records have changed over time and vary across states.”

Hajnal, joined by Nazita Lajevardi and John Kuk, responded to the Grimmer et al. study in the same issue of *Journal of Politics*. Hajnal and his colleagues note that even when the Grimmer study accounted for the issues that it found with the first Hajnal paper, it still ultimately came to the same conclusion. Grimmer and his colleagues purported to fix the Hajnal study by ferreting out possible unseen variables. The second Hajnal paper retorts that even if this is the case, both the first Hajnal study and the Grimmer study “demonstrate that the racial gap in turnout increases when strict ID laws are implemented.”

Even if one does not want to take the word of either Grimmer or Hajnal, a superficial glance at the comparison between the findings reveals that the Grimmer paper does indeed replicate the findings of the first Hajnal study, albeit at slightly lower rates.

Another significant piece of the minority turnout puzzle when it comes to voter identification laws concerns how voter identification laws make voters feel about voting. Anecdotal evidence about turning out is certainly not the end-all, but it does add yet another layer to the multifaceted debate concerning voter identification laws. On the 2012 Survey of the Performance of American Elections (SPAE) respondents were posed the statement, “I did not vote in the election this November.” Those that did not vote moved on to the rest of the survey and were asked about some factors that could have had an effect on their not voting. One such factor was lacking the proper identification to vote. It was found that “among the non-voting

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respondents, 15.1% listed this as… a…factor. Among those lacking a driver's license, not having the right kind of identification was named as a factor among 14% of non-voters."34 Moreover, a different survey conducted after the 2012 general election found that “17.3% of young black nonvoters were discouraged from voting because of a perceived lack of proper ID, whereas only 4.7% of young white nonvoters and 8.1% of young Latino nonvoters experienced such discouragement.”35 There are indeed issues with the use of these surveys beyond their intended scope. First, surveys must always be taken with a grain of salt, because individuals sometimes report non-factual information in them. Second, these surveys are roughly six years old now, so their implications may have long been addressed. Finally, the second survey discussed did not account for the Help America Vote Act (HAVA) and did not account for the possible overrepresentation of people of color amongst HAVA voters. Still, these surveys provide yet another angle from which to assess the impacts of voter identification laws throughout the nation.

The implications of these findings are indeed grave. If it is true that voter identification laws lessen minority turnout, then elections could be theoretically rigged to benefit one party. Minority voters tend to support and vote for the Democratic Party. According to the Pew Research Center, in the 2016 general election, Hispanic voters preferred Democratic candidate Hillary Clinton over Republican candidate Donald Trump by 36 percentage points. Likewise, black voters supported Clinton over Trump by an astounding 80 percentage points.36 It is entirely possible that these numbers are skewed somewhat because of how polarizing President Trump

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and Hillary Clinton were during their campaigns. This possibility, however, is unlikely to entirely account for the massive Democratic support from minority voters. In fact, minority voters have steadily supported the Democratic Party since roughly the 1960’s. In 2014, political scientist Joshua Zingher published a study that documented the support for the two major American political parties between 1952 and 2008. Zingher concluded that Jews, Catholics, Latinos, and union members were much more likely to support the Democratic Party than non-group members since at least 1952. Interestingly, African Americans were not highly supportive of the Democratic Party in the 1950’s, but following the Democratic push for civil rights in the 1960’s, support for the Democratic Party from African Americans has swelled. Specifically, Zingher found that “since the 1960s, African Americans have been twenty to thirty percentage points more likely than non-African Americans to vote for the Democratic Party.”

Here is demonstrable evidence that the two largest minority groups in the United States—African Americans and Latinos—consistently and reliably support the Democratic Party at extremely high rates.

There is clearly a distinct advantage to be gained for the Republican Party through the enactment of voter identification laws. Because voter identification laws increase the gap in turnout between minority and white voters, they also tend to increase the gap between Democrat and Republican voters by extension. It is imperative to note that the enactment of voter identification laws does not necessarily mean that those in favor of those laws are racist or prejudiced. It is entirely possible that purpose of the enactment of these laws was to attempt to

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reduce voter fraud, increase the public’s confidence, undermine the Democratic vote, or some combination of these.

IV. Future of Voter Identification Laws

The issue with the Republican advantage that voter ID laws provide is that this benefit may begin to wane in the coming years. According to a report released by the United States Senate Special Committee on Aging, “suppressive voter laws, such as laws that require voter ID and limit access to polling locations, heavily impact older Americans.”\(^{38}\) These results are astonishing, but they are less surprising when one understands why this is the case. Senators Robert Casey and Amy Klobuchar concluded that the strict requirement to present identification at the polls is prohibitive for elderly Americans. This is because “millions of older Americans do not maintain a current government ID…or do not have access to the documentation required to obtain a government ID.”\(^{39}\)

The impact of voter identification laws on older Americans is important because this group of voters tends to heavily support the Republican Party. Data from the 2016 general election show that Americans age 65 and over preferred Donald Trump over Hillary Clinton by a margin of nearly ten percentage points.\(^{40}\) Americans born between 1946 and 1964—some of whom are over 65 and the rest of whom are approaching that age—support the Republican Party in high numbers as well. Specifically, 46% of registered voters born between 1946 and 1964 support the Republican Party, compared to 48% of the same age group that supports the


\(^{39}\) “Barriers to Voting for Older Americans,” accessed 2018.

\(^{40}\) “Behind Trump’s victory,” 2016.
Democratic Party. Although Democratic supporters hold a razor-thin majority in the generation that is going to soon constitute the “older Americans” category, Republican supporters do not hold an insignificant minority. With as close as the rates are, it is not outside the realm of possibility that they could flip in the coming years. Even if they do not, Republicans ought to be concerned. If roughly 46% of older Americans support them, but are restricted in their ability to vote by strict voter ID laws, Republicans could lose a significant portion of their base. As the younger generations of Americans—all of whom are either somewhat or decidedly Democratic—continue to age into their thirties, forties, and fifties and thus become more likely to vote, that kind of supporter loss could spell doom for the Republican Party in close elections.

V. Conclusion

The idea that United States elections could be influenced by fraudulent votes and the desire to increase public confidence in the electoral system has led to the enactment of voter identification laws in states around the nation. The enactment of said laws in their strictest form only began to occur roughly 14 years ago. Thus, the effects of these laws on voter turnout—especially among minorities—remain relatively unknown. At first, the data concerning the effects of voter identification laws on elections seem to be contradictory. Some studies conclude that turnout is not significantly affected. Others note that the disenfranchising effect of voter ID laws is so infinitesimal that it has no impact. Still others conclude the presence of strict voter identification statutes actually increases the rate of turnout. Yet, when one examines the available studies and meta-analyses, the picture becomes clearer. Studies across numerous states and in more recent years all begin to sing the same tune: voter turnout in general, but especially among

minority voters, decreases in states with strict voter identification laws. Even on the off-chance that minority turnout is increased in a particular strict ID state, studies have consistently shown that the gap between minority and non-minority voters in that state is larger than in a non-strict ID state. This is true even when studies purporting to show massive turnout gaps between minorities and whites are corrected in their methods.

As the American populace continues to age, voter identification laws will continue to impact different groups of voters differently. Right now, Republicans stand to gain an advantage from voter identification laws. The ability to depress turnout amongst minorities and to increase the gap between minority and white voters increases the chance that Democratic voters will be overshadowed by Republican voters. This benefit does not seem as though it will extend interminably. As middle-aged Americans—almost half of whom support the Republican Party—continue to age, they will begin to lose their franchise. This is because older Americans are hit particularly hard by strict voter identification laws; many citizens over the age of 65 simply do not have the requisite ID to vote.

The effects of voter identification laws on turnout would certainly be justifiable if they demonstrably reduced the likelihood of voter fraud or if they increased public confidence in the electoral system. This does not seem to be the case. Over a nearly 15 year period between the years 2000 and 2014, only 31 credible voter fraud claims were discovered anywhere in the United States. One might say that the enactment of strict voter identification laws around 2005 and 2006 could account for such a low number, but that simply ignores six full years where these laws did not exist and there was no rampant voter fraud. On the contrary, voter identification could theoretically increase the chance of voter fraud. The presence of these laws do have a
depressing effect on turnout. In a close race where some individuals would have turned out without the law in place, but calculate that the barriers to voting are too high with the law in place, any amount of fraudulent votes—be it by mail or some other measure—could swing the election illegally. Voter identification laws similarly do not find solace in the ‘public confidence’ argument. In states with strict voter identification laws, overall turnout levels are not significantly higher than in states without those laws, and in some instances, it is markedly lower. In states with and without strict ID laws, the rates of confidence that voter fraud is being detected are virtually the same.

Where does all this information leave the United States in terms of voter identification laws? Voter identification laws and their effects ought to be taken as an aggregate. As of now, white Americans are more likely to possess the required identification for voting in strict ID states than minorities. The literature concerning the effects of that disparity has shown wildly different results. However, as voter ID laws get older, the studies begin to corroborate a few key findings. First, minorities tend to turn out less than whites in states with strict voter ID laws. Second, minorities list the lack of identification as at least a partial reason for not voting. Finally, even if turnout increases in states with strict ID laws, the gap between whites and minorities is larger than in states without such laws. These effects are damning for ID laws and they are not counterbalanced by some tangible benefit. Voter identification laws neither reduce voter fraud nor give the impression of reducing voter fraud. The reduction of minority turnout at the polls and the increase between minority and non-minority turnout helps the Republican Party. Thus, although it may be overall minimal, voter identification laws tend to disenfranchise voters that turn out, support, and vote for the Democratic Party.
Bibliography


