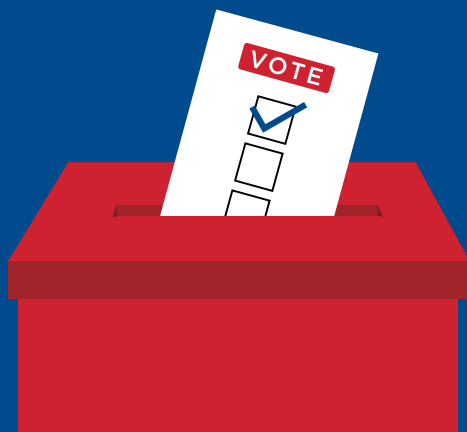


MANDATE FOR

LEADERSHIP:

# Ensuring the Integrity of Our Election System



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## The Principles of Conservatism

*A guide to building an America  
where freedom, opportunity, prosperity,  
and civil society flourish.*

**T**he Heritage Foundation formulates policies that promote free enterprise, limited government, individual freedom, traditional American values, and a strong national defense. Heritage does not support policies that deviate from these principles, nor are our recommendations ever influenced by donations or outside political pressure.

1. The federal government exists to preserve life, liberty, and property, and it is instituted to protect the rights of individuals according to natural law. Among these rights are the sanctity of life; the freedom of speech, religion, the press, and assembly; the right to bear arms; the right of individuals to be treated equally and justly under the law; and to enjoy the fruits of one's labor.
2. The federal government's powers are limited to those named in the Constitution and should be exercised solely to protect the rights of its citizens. As Thomas Jefferson said, "The government closest to the people serves the people best." Powers not delegated to the federal government, nor prohibited by the Constitution, are reserved to the states or to the people.

3. Judges should interpret and apply our laws and the Constitution based on their original meaning, not upon judges' personal and political predispositions.
4. Individuals and families—not government—make the best decisions regarding their and their children's health, education, jobs, and welfare.
5. The family is the essential foundation of civil society, and traditional marriage serves as the cornerstone of the family.
6. The federal deficit and debt must not place unreasonable financial burdens on future generations.
7. Tax policies should raise only the minimum revenue necessary to fund constitutionally appropriate functions of government.
8. America's economy and the prosperity of individual citizens are best served by a system of free enterprise, with special emphasis on economic freedom, private property rights, and the rule of law. This system is best sustained by policies promoting free trade and deregulation, and opposing government interventions in the economy that distort markets and impair innovation.
9. Regulations must not breach constitutional principles of limited government and the separation of powers.
10. America must be a welcoming nation—one that promotes patriotic assimilation and is governed by laws that are fair, humane, and enforced to protect its citizens.

11. Justice requires an efficient, fair, and effective criminal justice system—one that gives defendants adequate due process and requires an appropriate degree of criminal intent to merit punishment.
12. International agreements and international organizations should not infringe on American’s constitutional rights, nor should they diminish American sovereignty.
13. America is strongest when our policies protect our national interests, preserve our alliances of free peoples, vigorously counter threats to our security, and advance prosperity through economic freedom at home and abroad.
14. The best way to ensure peace is through a strong national defense.

## Ensuring the Integrity of Our Election System

The right to vote in a free and fair election is the most basic civil right and one on which many other rights of the American people depend. Protecting the right to vote and safeguarding the integrity and security of our elections are fundamental to preserving and maintaining our great Republic. The security of the ballot box cannot be left to a simple honor system. Congress and the states must ensure that all eligible Americans are able to vote and that their votes are not stolen or diluted by fraud or administrative errors. Every American must be able to trust the process and the result; otherwise, the democratic system itself breaks down.

Contrary to the claims of many liberals, the problem of voter fraud is as old as the country itself. As the U.S. Supreme Court noted when it upheld Indiana’s voter identification law, “flagrant examples” of such fraud “have been documented throughout this Nation’s history by respected historians and journalists.” The Court concluded that such examples “demonstrate that not only is the risk of voter fraud real but that it could affect the outcome of a close election.”<sup>1</sup>

Liberal groups often claim that known instances of fraud are inconsequential when compared to the total number of ballots cast in American elections. However, as the National Commission on Federal Election Reform chaired by former President Jimmy Carter and former Secretary of State James A. Baker III concluded, the problem “is not the magnitude

of voter fraud. In close or disputed elections, and there are many, a small amount of fraud could make the margin of difference.” Moreover, said the Commission in its 2005 report, “the electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters.”<sup>2</sup>

Numerous troubled elections bear out this assessment. In 2015, a city council race in the New Jersey town of Perth Amboy was decided by a mere 10 votes. A judge overturned the election and ordered a new one after it was revealed that at least 13 illegal absentee ballots had been cast. More recently, the mayor of Gordon, Alabama, was removed from office after being convicted of voter fraud in an election with only a 16-vote margin.

Similarly, a congressional race in North Carolina’s 9th District was overturned by the state’s election board in 2019 because of illegal and fraudulent activity involving absentee ballots in an election where the margin of victory was less than a thousand votes. The 2003 mayoral primary in East Chicago, Indiana, was overturned by the state Supreme Court after evidence of widespread fraud was revealed that led to numerous convictions for election fraud. A new election resulted in a different winner.

The Heritage Foundation’s election fraud database contains a sampling of approximately 1,200 cases of proven fraud from across the country, each of which has resulted in a criminal conviction, an official finding of fraud, or an overturned election.<sup>3</sup> Nor does this database represent the full scope of the problem. Unfortunately, election fraud too often goes undetected, and even when it is discovered, many prosecutors fail to pursue such cases. It does, however, serve as a sobering reminder of the need for election safeguards.

As illustrated in the database, there are many different types of fraud:

- **Impersonation fraud at the polls:** voting in the name of other legitimate voters and voters who have died, moved away, or lost their right to vote because they are felons but remain registered.

- **False registrations:** voting under fraudulent voter registrations that either use a phony name and a real or fake address or claim residence in a particular jurisdiction where the registered voter does not actually live and is not entitled to vote.
- **Duplicate voting:** registering in multiple locations and voting in the same election in more than one jurisdiction or state.
- **Fraudulent use of absentee ballots:** requesting absentee ballots and voting without the knowledge of the actual voter or obtaining the absentee ballot from a voter and either filling it in directly and forging the voter’s signature or illegally telling the voter for whom to vote.
- **Buying votes:** paying voters to cast either an in-person or absentee ballot for a particular candidate.
- **Illegal “assistance” at the polls:** forcing or intimidating voters—particularly the elderly, disabled, illiterate, and those for whom English is a second language—to vote for particular candidates while supposedly providing them with “assistance.”
- **Ineligible voting:** illegal registration and voting by individuals who are not U.S. citizens, are convicted felons, or are otherwise not eligible to vote.
- **Altering the vote count:** changing the actual vote count either in a precinct or at the central location where votes are counted.
- **Ballot petition fraud:** forging the signatures of registered voters on the ballot petitions that must be filed with election officials in some states for a candidate or issue to be listed on the official ballot.



Under our Constitution, we have the most decentralized election administration system of any Western democracy. States are generally responsible for the administration of their electoral processes, including elections for federal office. However, there are certain federal standards and requirements that they must meet pursuant to applicable federal laws such as the Voting Rights Act and the National Voter Registration Act.

State governments must take their responsibility seriously and adopt policies that are sufficient to secure their elections against fraud, including efforts by noncitizens to vote and attempts by citizens registered in multiple states to vote multiple times in the same election. They must also oppose efforts by liberal groups to implement changes in voter registration and election processes that are intended to make it easy to cheat and difficult for election and law enforcement officials to detect and prosecute fraud.

## A LOOK BACK

The progressive left has created a false hue and cry about a supposed loss of voting rights. They claim that support for reforms intended to improve the integrity of the election process, such as voter identification requirements and effective maintenance procedures for statewide voter registration lists, amount to widespread, systemic “voter suppression” of poor and minority voters.

In fact, there is no “voter suppression” epidemic. These new state regulations and laws addressing the security of our elections, such as requiring voter identification or participation in programs that compare state voter registration lists, are not “voter suppression.” They comply with existing federal voting laws that prohibit discrimination and have neither hurt turnout nor prevented eligible individuals from being able to vote.

“Voter suppression” is an artificially created term that unfairly condemns any perfectly legal election reform with which liberal critics

disagree. It is a linguistic trick designed to taint reasonable and common-sense safeguards that protect voters by lumping these policies together with illegal activities like poll taxes and literacy tests.

Critics of these reforms oppose every effort to improve the administration of elections. Opponents allege that maintaining accurate voter registration rolls to ensure that only eligible individuals cast ballots, prosecuting actual cases of election fraud, and implementing basic security reforms such as voter identification all amount to “voter suppression.” Nothing could be further from the truth, and most Americans agree. In fact, an overwhelming majority support reforms such as voter identification requirements.

Election reform has had mixed success over the past four years. On the one hand, 17 states now require a photo ID, and another 17 states require a non-photo ID to vote. But that leaves more than a dozen states (including large states like California and New York) and the District of Columbia with no ID requirement of any kind and thus no security system in place for voting. Also, only a handful of states apply an ID requirement to absentee balloting in addition to in-person voting.

Every state that has passed a voter ID law subsequently has faced a very expensive, years-long fight in the courts before its laws could become effective. Liberal groups have lost almost all of those cases, with only a handful of exceptions, but they continue to use a litigation strategy to make it as difficult and expensive as possible for states to implement election reforms.

Only four states have passed laws requiring proof of citizenship to register to vote, and all of those have been tied up in lawsuits filed by progressive groups that oppose election integrity. Liberal groups are trying to get states to stop participating in the Interstate Voter Registration Crosscheck Program, a voluntary program run by the states in which they compare their statewide voter registration lists to find voters who are registered in more than one state.

Liberals have also taken to the courts to oppose all efforts by states to increase the accuracy of their voter rolls and to remove ineligible voters.

There is no question that voter registration lists across the country are filled with errors and inaccurate data and that states are doing a poor job of maintaining those lists. Fortunately, in 2018, the U.S. Supreme Court upheld Ohio's procedures for removing from the state's registration lists the registered voters who have moved, died, or otherwise become ineligible to vote. In *Husted v. A. Philip Randolph Institute*, the Supreme Court cited a Pew Center study showing that "24 million voter registrations in the United States—about one in eight—are either invalid or significantly inaccurate."<sup>4</sup>

Unfortunately, liberals are also pushing so-called election reforms that would make it easier to commit fraud, would increase the security vulnerabilities of the current voter registration system, and might actually hurt turnout. These changes should be opposed. They include:

- **Automatic voter registration.** Individuals are automatically registered without their permission using other state databases such as driver's licenses, welfare recipients, or tax records. This registers ineligible voters, including noncitizens, and leads to multiple and duplicative registration of the same individual.
- **Same-day or Election Day voter registration.** Individuals can register and vote immediately. This gives election officials no opportunity to verify the accuracy of the registration information provided by the voter.
- **All-mail voting.** Ballots are mailed to all registered voters. This is particularly worrisome given the inaccuracy of statewide voter registration lists. Mail ballots are the "tools of choice" of vote thieves and are easily intercepted by party activists and campaign workers who have the opportunity to change, alter, and forge the ballots.
- **Allowing noncitizens (legal and illegal) to vote.** There are many public policy reasons why noncitizens should not be

able to exercise the most important right that a citizen enjoys; this is part of the liberal push to blur the line between citizens and noncitizens.

- **Felon voting.** The drive to allow felons to vote from prison or to reinstate their ability to vote the moment they are out of prison, before they have even completed any parole or probation or paid any court-ordered restitution to their victims, turns law-abiding citizens into victims. The recidivism rate among felons is extremely high: 75 percent of felons are back in prison within five years. Criminals who have broken the rules of civil society should not get back the right to decide what those rules are until they serve their entire sentence, repay their victims, and show (for some period of time after they leave prison) that they have really reformed and turned over a new leaf.
- **National popular vote plan.** The push to eliminate the Electoral College would elevate the importance of large, urban cities at the expense of small states and rural areas. It would lead to closer elections, more recounts, and increased litigation and would encourage voter fraud. Most seriously, it would strike at our federalist structure that balances popular sovereignty with protections for state governments and minority interests.

## MOVING FORWARD

There are many steps that the states can and should take to improve election integrity and eliminate security vulnerabilities that exist in the current system, but a number of reforms can be accomplished on the federal level by Congress and the executive branch, including both the Department of Justice and the Department of Homeland Security. On the federal level for federal elections, policymakers and executive branch officials should:

- **Require a government-issued photo ID to vote in person or with absentee ballots.** A free ID should be provided to the very small number of citizens who do not already have one. Only IDs that are issued to citizens should qualify as acceptable documentation unless the identification prominently displays noncitizen status on its face.
- **Require proof of citizenship to register to vote.** Only citizens are allowed to vote in federal elections. Anyone registering to vote should be required to provide proof that he or she is actually an American citizen.
- **Give states access to federal databases.** State election officials who are responsible for ensuring the accuracy of their voter registration lists should be given access to federal information databases. This would include those maintained by the Department of Homeland Security and other federal agencies and departments, such as the Social Security Administration, to verify citizenship status, identity, residence, and other factors that determine the eligibility of registered voters.
- **Use federal jury information to detect ineligible voters.** Federal courts use state voter registration lists to find jurors for federal trials. When those individuals are excused from jury duty because they have moved out of the state or are noncitizens, deceased, or felons, that information should be forwarded to state election officials for eligibility determinations and to federal prosecutors to investigate whether federal election laws have been violated.
- **Deny citizenship to aliens who have illegally registered and voted in violation of federal law.** It is a felony for a noncitizen to register and vote in federal elections. No alien applying for

naturalization who has registered or voted in a U.S. election should be approved for citizenship. The Department of Homeland Security should be required to forward all such information to the Department of Justice for investigation and possible prosecution, and the Justice Department should prioritize voter fraud investigations and prosecutions.

- **Reject any effort to abolish the Electoral College.** Any state compact to manipulate or alter the Electoral College requires congressional assent. Such a compact should not be approved, and any constitutional amendment to scrap the Electoral College should be rejected.
- **Require regular monthly maintenance of statewide voter registration lists.** Too many states neglect taking the steps necessary to maintain the accuracy of their voter registration lists to find voters who have moved, died, or otherwise become ineligible to vote. This should be done on a monthly basis. As part of this effort, states should participate in programs like the Interstate Voter Registration Crosscheck Program to identify voters who are registered in multiple states.

## CONCLUSION

Americans have an easier time registering and voting today than they have had at any other point in our nation's history. States, with the assistance of the federal government, must ensure fair elections that accurately reflect the will of the voters. This includes ensuring the accuracy of voter registration rolls, requiring proof of identity and citizenship to register and vote, and prosecuting cases of fraud to deter future malfeasance. These reforms would help to improve the integrity of every stage of the democratic process, from the casting of votes to the counting of ballots.

## THE HERITAGE FOUNDATION

### ENDNOTES

1. *Crawford v. Marion County Election Board*, 553 U.S. 181, 128 S.Ct. 1610, 1619 (2008).
2. Commission on Federal Election Reform, *Building Confidence in U.S. Elections: Report of the Commission on Federal Election Reform*, September 2005, p. 18, <https://www.eac.gov/assets/1/6/Exhibit%20M.PDF> (accessed October 8, 2019).
3. See The Heritage Foundation, "Election Fraud Cases from Across the United States," Heritage Foundation Election Fraud Database, <https://www.heritage.org/voterfraud> (accessed October 8, 2019).
4. *Husted v. A. Philip Randolph Institute*, 138 S.Ct. 1833, 1838 (2018).



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