



**Statement of Katie O'Connor  
Staff Attorney, Advancement Project**

**United States House of Representatives  
Committee on Oversight and Government Reform  
Forum: Lessons from Election Day 2012: Examining the Need for Election Reform  
Woodbridge, Virginia  
Monday, January 14, 2013**

Thank you for the opportunity to speak on the need for election reform and thank you for continuing the needed dialogue on this most important right – the cornerstone of American democracy – the right to vote.

I submit this statement today on behalf of Advancement Project—a national civil rights organization that advances universal opportunity and a just democracy.<sup>1</sup> Since 2000, we have worked closely with a broad array of local community, voter registration, and GOTV groups, statewide civic engagement coalitions, national partners and election officials to eliminate barriers to voting in communities of color. We have done this in many key states, including Virginia, and have worked especially closely on the ground with Virginia citizens and civic engagement groups during the 2012 election cycle. Today, I will present our observations on structural election administration barriers that make it harder for Virginians to vote, examples of burdens on the voting rights of citizens of the Commonwealth, and our proposed recommendations to eliminate these barriers and burdens. Specifically, we recommend the following reforms for Virginia's election administration system with details provided below: early voting and no-excuse

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<sup>1</sup> Advancement Project is a next generation, multi-racial civil rights organization, founded in 1999 by a team of veteran civil rights lawyers. With offices in California and a national office in Washington, DC, we exist to fulfill America's promise of an inclusive and just democracy, rooted in the great human rights struggles for equality and justice. We use innovative tools and strategies to strengthen social movements and achieve high-impact policy change. Locally, we provide strategic policy, legal, and communications support to grassroots organizations, increasing their capacity to identify and address racial injustices in their communities. On the national level, we extend and replicate lessons learned on the ground, through the use of legal advocacy, networking, media outreach, and public education.

absentee voting; an updated voter registration system; and automatic restoration of rights for people with past felony convictions.

In the November 2012 election, voters in Virginia waited in line an average of more than twenty-five minutes to vote,<sup>2</sup> and some voters waited up to five hours.<sup>3</sup> These voters include a couple, Vietnamese American business owners, who came to vote early in the morning but left as the lines were too long and they had to get to work. We met them after they returned to the polls a second time. It was already 8:30 p.m. and they had been waiting for well over an hour, but they still had another hour to wait before they could vote. We also met an African American working mother who had to come to the polls four times to be able to vote on Election Day, because at each instance the lines were too long. Since Virginia does not have early voting and she did not have a legal “excuse” to vote absentee, she had to juggle getting to work and picking up her son from school. We also met a woman who was pregnant, who came to the polls once, saw the line and got discouraged, then came back with warmer clothes so that she was prepared to wait in the freezing rain. She said to us: “I’m pregnant and scared to drink the water here, but I’m waiting to vote.”<sup>4</sup>

Unfortunately, the burdens born by these voters represent only a fraction of the burdens on the right to vote in Virginia, and throughout the country. One in five African Americans in Virginia is permanently disenfranchised due to past felony convictions, while the overall rate of disenfranchisement in the Commonwealth is one in every fourteen.<sup>5</sup> There are approximately 6.1 million Virginians of voting age, but only 5.4 million people on the voter registration rolls, and only 3.9 million Virginians who actually voted in 2012.<sup>6</sup> Nationwide, nearly twenty-five percent of eligible Americans, at least fifty-one million potential voters, are not registered.<sup>7</sup>

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<sup>2</sup> Pew Center on the States, *New Data on Lines at the Polls*,

<http://www.pewstates.org/research/analysis/new-data-on-lines-at-the-polls-85899435524>.

<sup>3</sup> Jordy Yager, *Virginia Voters See Long Lines*, *The Hill*, Nov. 6, 2012,

<http://thehill.com/homenews/campaign/266281-virginia-voters-see-long-lines-as-polls-swoop-in>.

<sup>4</sup> Advancement Project Staff Notes from Nov. 6, 2012 (notes on file).

<sup>5</sup> <http://www.advancementproject.org/issues/voting-rights-restoration>

<sup>6</sup> Virginia QuickFacts, United States Census Bureau,

<http://quickfacts.census.gov/qfd/states/51000.html>; Commonwealth of Virginia, State Board of Elections, *Voter Registration Statistics as of 12/05/2012*, available at

[http://www.sbe.virginia.gov/Files/Registration%20Statistics/2012/11/Locality\\_Statistics.pdf](http://www.sbe.virginia.gov/Files/Registration%20Statistics/2012/11/Locality_Statistics.pdf);

Virginia State Board of Elections, *November 6, 2012 General Election Official Results*, available at

[https://www.voterinfo.sbe.virginia.gov/election/DATA/2012/68C30477-AAF2-46DD-994E-5D3BE8A89C9B/Official/95\\_s.shtml](https://www.voterinfo.sbe.virginia.gov/election/DATA/2012/68C30477-AAF2-46DD-994E-5D3BE8A89C9B/Official/95_s.shtml).

<sup>7</sup> Pew Center on the States, *Inaccurate, Costly, and Inefficient: Evidence That America’s Voter Registration System Needs an Upgrade* (2012), available at

[http://www.pewtrusts.org/our\\_work\\_report\\_detail.aspx?id=85899370677](http://www.pewtrusts.org/our_work_report_detail.aspx?id=85899370677).

President Obama was right. We have to fix that.<sup>8</sup> The first step toward fixing it is to stop the debate over restrictive measures that will serve only to disenfranchise a significant number of eligible voters. These measures have dominated the discussion over the past two years, but have not fixed anything.<sup>9</sup> Instead, they have created confusion and excluded eligible voters from participating in our democracy. There are certainly ways to improve our elections, and we need to start having honest conversations about them. We recommend that the Commonwealth of Virginia consider comprehensive reforms including: (1) providing early voting and no-excuse absentee voting; (2) modernizing voter registration to accommodate address changes and other updates at the polls; and (3) automatically restoring rights of people with past felony convictions.

### **Early Voting and No-Excuse Absentee Voting**

Early voting has proven to be enormously popular among voters and election officials in the states that offer it, and should be expanded to the states that do not, including Virginia, where it could alleviate the long lines that many voters experienced on Election Day, and that may have kept other eligible American citizens from voting. Over thirty-two million people voted before Election Day last year, comprising over a quarter of the total vote.<sup>10</sup> Yet, eighteen states do not have in-person early voting at all, and twenty-one states do not have no-excuse absentee mail-in voting.<sup>11</sup> Virginia has neither. Along with other states throughout the country, Virginia must begin offering no-excuse absentee voting and in-person early voting. Early and no-excuse absentee voting could drastically reduce the lines that plague polling places on Election Day, and could give voters and election officials a chance to resolve potential issues before Election Day.

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<sup>8</sup> Dan Froomkin, *Obama On Long Lines At Polls*, Huffington Post, Nov. 7, 2012,

[http://www.huffingtonpost.com/2012/11/07/obama-long-lines-polls\\_n\\_2086291.html](http://www.huffingtonpost.com/2012/11/07/obama-long-lines-polls_n_2086291.html).

<sup>9</sup> These recent attacks have been justified as ways to reduce voter fraud, but voter fraud is an exceedingly minor problem in the United States. Indeed, in the Supreme Court case challenging Indiana's voter ID requirement, the state did not produce a single piece of evidence of fraud that would have been prevented by the challenged law. See *Crawford v. Marion County Election Bd.*, 553 U.S. 181, 190 (2008). See also Justin Levitt, Brennan Center for Justice, *Analysis of Alleged Fraud in Briefs Supporting Crawford Respondents* (2007), available at <http://www.brennancenter.org/page/-/Democracy/Analysis%20of%20Crawford%20Allegations.pdf>.

Similarly, a comprehensive study funded by the Carnegie Foundation found that, since 2000, there have been only 35 *allegations* of voter fraud in Virginia. See Corbin Carson and News21 staff, (Aug. 12, 2010), available at <http://votingrights.news21.com/interactive/election-fraud-database/.23>. This accounts for only .000643955% of Virginia's 5,435,160 million registered voters. Nevertheless, in the past two years, fourteen state legislatures, including the Virginia General Assembly, have passed voter ID laws.

<sup>10</sup> United States Elections Project, 2012 Early Voting Statistics,

[http://elections.gmu.edu/early\\_vote\\_2012.html](http://elections.gmu.edu/early_vote_2012.html).

<sup>11</sup> National Conference of State Legislatures, Absentee and Early Voting,

<http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx>.

## **Updating the Voter Registration System**

The registration system needs to be improved to allow for automatic updates and easy changes to registration information on Election Day, so that voters can always vote a regular ballot in the precinct where they live. Between 2011 and 2012, twelve percent of people in the country over age one moved at least once, and thirty-five percent of people moved at least once in the last five years.<sup>12</sup> Despite this mobility, each state has its own confusing rules regarding where a voter should vote if she has moved since the last election. We certainly saw evidence of this confusion in Virginia on Election Day. Poll workers spent significant time trying to explain these rules to voters, and voters often spent time shuffling between polling places trying to find the correct one.<sup>13</sup> In the end, these factors contributed to longer lines on Election Day. Furthermore, unreasonable voter registration deadlines and burdensome change-of-address procedures have a profound impact on participation in our country's democracy. In Virginia, only two-thirds of persons of voting age actually voted in 2012.<sup>14</sup> These issues could easily be remedied by providing a modernized voter registration system that allows a voter's registration to move with the voter.

## **Automatic Rights Restoration**

Finally, we commend Governor McDonnell's efforts to restore rights to more disenfranchised citizens than any previous governor. We commend him for his recent call for the automatic restoration of civil rights for people with nonviolent felony convictions, and encourage him to expand his call to all people with felony convictions.<sup>15</sup> Advancement Project's Virginia Rights Restoration Campaign has been calling for reform alongside thousands of unfairly disenfranchised voters and we were pleased with the Governor's public support for an automatic restoration process. Currently, 350,000 Virginia citizens, almost seven percent of the Commonwealth's voting age population, are unable to vote due to harsh felon disenfranchisement laws.<sup>16</sup> One in five black Virginians cannot vote due to its outdated laws.<sup>17</sup> Myrtle Jones fell into this category until this November. Myrtle was convicted of a felony after defending herself against an abusive ex-husband over 20 years ago. She successfully restored her rights on Labor Day, and voted in this historic presidential election. Citizens like Myrtle have paid their debt to society. They live and work in our communities, pay taxes, and

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<sup>12</sup> Alison Fields and Robert Kominski, *America: A Nation on the Move*, U.S. Census Bureau, Dec. 10, 2012, <http://blogs.census.gov/2012/12/10/america-a-nation-on-the-move/>.

<sup>13</sup> Advancement Project Staff Notes, *supra* note 4.

<sup>14</sup> *See supra* note 6.

<sup>15</sup> Todd Allen Wilson, *McDonnell calls for automatic restoration of voting rights for felons*, Daily Press, Jan. 9, 2013, <http://www.dailypress.com/news/politics/dp-nws-mcdonnell-state-of-the-commonwealth-20130109,0,539195.story>.

<sup>16</sup> Christopher Uggen, et al., *State Level Estimates of Felon Disenfranchisement in the United States* (The Sentencing Project July 2012).

<sup>17</sup> *Id.*

should have the opportunity to participate in our democracy. Virginia is only one of four states that disenfranchise people with past felony convictions, for life.<sup>18</sup>

The only way for citizens of Virginia to restore their rights after a felony conviction is by individual petition to the governor. In contrast, forty-six other states, including most southern states, automatically restore voting rights after a person convicted of a felony has paid her debt to society.<sup>19</sup> Individualized restoration of rights is an unfair, inefficient process. In fact, even if the governor of Virginia and his successors in office reviewed one of the 350,000 potential applications every hour, it would take fifty-one years to restore every disenfranchised citizen's rights under the current process. The laws in Virginia, and throughout the country, should encourage citizens to re-build their lives, not add unnecessary barriers to exercising the fundamental right to vote.

### **Conclusion**

Our country prides itself on our thriving democracy, and we owe it to future generations to ensure that it continues to thrive. There are real, but certainly not insurmountable, problems that we should fix. It is time to stop distracting ourselves with false solutions and to start improving our elections. Thank you for the opportunity to speak about our recommendations. I look forward to your questions, and also encourage you to contact Advancement Project if we can be of any further assistance.



Advancement Project  
Voter Protection Program  
1220 L Street, N.W., Suite 850  
Washington, D.C. 20005  
(202) 728-9557  
[koconnor@advancementproject.org](mailto:koconnor@advancementproject.org)  
[www.advancementproject.org](http://www.advancementproject.org)

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<sup>18</sup> Felony Disenfranchisement in the United States (July 2012), available at [www.sentencingproject.org](http://www.sentencingproject.org).

<sup>19</sup> *Id.*