



ACLU of Maryland Election Protection Report 2022

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THE 2022 MIDTERM ELECTIONS IN MARYLAND

Following the 2020 Presidential Election - and in the midst of a global pandemic, decennial redistricting, increased mobilization of white supremacists, and threats to our democracy, civil rights and civil liberties - many Marylanders exercised their right to vote in the 2022 Midterm Election.

Throughout 2022, the ACLU of Maryland and our partners worked tirelessly to ensure an accessible and secure election season for Maryland voters. In the General Election, over 382,000 Marylanders voted at early voting polling locations, and 541,000 voted by mail. In addition, over a million voters cast their ballot on Election Day.

A central part of the ACLU of Maryland's work is to dismantle white supremacy and its systems that intentionally marginalize the needs and vision of people most impacted by injustice. The ACLU of Maryland centers this mission in our everyday work, including during election seasons.

Redistricting in Maryland

In 2022, the state of Maryland and its counties and municipalities were at various stages of the process of redistricting based on the most recent census data. The state of Maryland, more racially diverse than ever before, needed to align voting districts with these changing demographics to ensure a truly representative government. The ACLU monitors this process to ensure that the new districts are drawn to maximize the voting power of BIPOC residents, taking action wherever there's a discriminatory and harmful impact on Black and Brown voters and communities.

One example of our work in this area is in Baltimore County where, in late December 2021, despite months of outcry by residents, Baltimore County officials passed a racially discriminatory redistricting plan that unfairly suppressed the voting rights of BIPOC voters. The County's BIPOC residents have grown to 47% of the population, an increase from 25% in 2000 and 35% in 2010. Despite this growth, the Council's redistricting plan created a racial gerrymander, keeping six out of seven districts as majority white.

In response, the ACLU of Maryland represented a coalition that included the Baltimore County NAACP, Common Cause Maryland, the League of Women Voters of Baltimore County, and several individual plaintiffs in a lawsuit against Baltimore County to challenge its illegal plan. The coalition alleged that Baltimore County's history of discrimination and racially polarized voting enabled white residents to defeat and discourage Black candidates from running in majority-white districts.

Maryland's Primary Date had to be postponed due to various Voting Rights Act litigation happening in the state. In February 2022, the coalition achieved victory when a U.S. District Judge recognized the redistricted map as racially discriminatory. In March, a newly drawn redistricted map was accepted by the judge. The newly drawn map was less racially biased than the first, but time will tell if it is enough to overcome racially polarized voting and white voter blocs.

ELECTION PROTECTION CAMPAIGN

The 2022 election season was impacted by persisting issues arising out of the pandemic, including poll worker shortage around the state, and a shortage of locations willing to serve as polling sites again. Additionally, as a result of the late release of census data and challenges to redistricting plans across the state, courts intervened and changed candidate filing deadlines, and the primary date. This caused late ballot changes and compressed the time for election officials to prepare. With voter intimidation and harassment rising nationwide, the Election Protection team at the ACLU of Maryland worked in a myriad of ways to reduce barriers to voting, work against voter disenfranchisement, and advocate for fair election practices that strengthen access to voting for Black, Indigenous, and People of Color.



6 Key Election Protection Efforts:

- The Election Protection Hotline
- On-Call Investigators
- Advocacy with the Maryland State Board of Elections
- Legal Advocacy and Litigation Preparedness
- Collaboration with the Everyone Votes Coalition and the Expand the Ballot, Expand the Vote Coalition
- Know Your Rights materials, including online video ads highlighting the right to vote of Marylanders who are currently and formerly incarcerated.

ELECTION PROTECTION HOTLINE

The ACLU of Maryland's Election Protection (EP) Hotline serves as a free resource for answering voters' questions and investigating complaints. The hotline is staffed by ACLU staff members and interns, who are trained to help Maryland voters. The EP Hotline Team assisted numerous voters with their complaints and inquiries from early voting through Election Day during the Primary and General Elections. Everyone who called the hotline was assisted with a member of the Hotline Team and received a written or phone follow-up. Callers from across the state raised concerns involving changing polling locations, voter registration status, early voting locations, and poll hours.

Despite the challenges described above, the elections of 2022 were executed without many major problems. That said, the ACLU of Maryland's Election Protection Hotline identified the following issues that impacted voters:

- Polls opened late
- Polling places were moved without sufficient notice or signage for voters
- Voting equipment issues, causing lines and forcing some voters to use provisional ballots
- Intimidation and harassment of elections officials and voters at the polls
- Confusion and lines caused by lack of clarity around Ballot Marking Devices
- And, an issue we hadn't heard of before: poor lighting at polling sites causing safety concerns and confusion

A graphic for the ACLU-MD Election Protection Hotline. It features a yellow background. On the left, the text "ACLU-MD ELECTION PROTECTION HOTLINE" is written in blue and red. To the right, a hand is shown putting a blue ballot labeled "VOTE" into a blue ballot box. A QR code is on the front of the ballot box. Below the ballot box, the text "Problems at the polls?" is written in red. A purple banner contains the phone number "CALL (667) 219-2625" in red. At the bottom, there is a blue box with the text "Get your Maryland election checklist, more details about voting rights, and other key resources → aclu-md.org/vote" in white. The ACLU MD logo is in the bottom right corner.

**ACLU-MD
ELECTION
PROTECTION
HOTLINE**

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VOTING INSIDE AND BARRIERS TO VOTING

The Expand the Ballot Coalition consists of numerous organizations that have come together to stop voter suppression by ensuring that people who are currently and formerly incarcerated are aware of their right to vote and have access to voting regardless of their circumstances.

Organizations in the Coalition include: Out for Justice, Life After Release, Maryland Justice Project, League of Women Voters, NAACP, Common Cause, Disability Rights Maryland, H.O.P.E., Campaign Legal Center, and ACLU of Maryland.

During the 2022 election season, the Coalition spent much of its time touring jails and prisons and meeting with corrections officials to understand how the Value My Vote Act is being implemented in jails and prisons across the state. The Act establishes requirements for the State Board of Elections, Department of Public Safety and Correctional Services (DPSCS), local boards of elections, and individual facilities aimed at increased voter education and registration at correctional facilities across the state.

The Coalition's tours and meetings were also to ensure that people in jails and prisons had access to the election materials they needed to make their voices heard in the 2022 elections. We included the local election boards in our correspondence and conversations to underscore their role in providing election materials and picking up ballots. Find out more about this and the rest of the work of the Coalition the Expand the Ballot voting inside report (link to come.)

In addition to touring and meeting with jails and prison officials, Life After Release secured two Black Voters Matter vans for the Coalition to use to promote voter engagement in Maryland. Maryland Justice Project brought the vans all over the state for three weeks before and on Election Day to

encourage underrepresented communities to vote and to discuss the importance of participation by Black voters. On Election Day, the Coalition used the vans to take some individuals directly to and from the polls, so they could exercise their right to vote.

Lastly, the ACLU of Maryland created a short video ad for social media that provided useful information about how Marylanders released from incarceration, in jail pre-trial, or incarcerated for a misdemeanor still have the right to vote. The ad in English and Spanish and has had more than 83,000 views across Youtube, Tiktok, and Facebook.



ADVOCATING FOR EQUITABLE AND ACCESSIBLE ELECTIONS

The ACLU of Maryland advocates through legislation and policy, litigation, community engagement, and public education. Our Election Protection efforts include advocating for equitable and accessible elections for all Marylanders with elections policy makers at the state and local level.

Throughout the year, the ACLU of Maryland, in partnership with the Everyone Votes Coalition, advocated for numerous policies and changes to benefit all Maryland voters. Mail-in ballots remained a key issue to monitor, as a significant percentage of voters are opting to vote by mail. The ACLU and Common Cause Maryland documented shared concerns and recommendations about the many errors that occurred during the Primary in a letter to the State Board of Elections (more below.) And, with Disability Rights Maryland, we reviewed and edited the 2022 Election Judges' Manual that the State Board of Elections uses for training with all election judges across the state. We gave feedback related to accessibility and options for voters with disabilities. In addition, in collaboration with the Expand the Ballot Coalition, we won significant improvements in the language around eligibility on the voter registration forms after submitting a proposal to the State Board of Elections and verbal testimony from Out for Justice.

Improving Primary Issues

Following the 2020 General Election, mail-in voting has become an accessible, safe, and convenient option for voting in Maryland. Over 500,000 Marylanders used mail-in ballots to voting in the General Election. The increased interest in voting by mail makes it even more important that election-related mail contains information that is clear and accurate. Unfortunately, we saw numerous errors during the Primary, caused in part by changes in district lines.



One error that occurred during the Primary was a privacy issue: Ballot envelopes erroneously revealed the voters' political party affiliation in a code visible through the window of the envelope.

In Baltimore City, human error caused voters to be placed in the wrong district and receive incorrect ballots. What's worse, voters who were sent incorrect ballots were notified and received new ballots, but upon investigation, the second ballot that was sent was incorrect, meaning the first ballots were correct all along. Duplicate ballots were sent to hundreds of voters in Montgomery County. An unknown number of Republican mail-in ballots were sent to registered Democrats. And, an estimated 10,000 voters in Prince George's County received incorrect sample ballots because of a printing mistake.

We made detailed recommendations in our letter to the State Board of Elections, most of which boil down to investigating the cause of these issues, adding quality control measures, and providing greater accountability for vendors and staff who make consequential mistakes.

RECOMMENDATIONS

Following the 2022 elections in Maryland, the ACLU Election Protection team has collaborated with its partners to create the following recommendations to ensure safe, accessible and equitable elections in the future.

Improve accountability and quality control to avoid preventable errors

Many issues that voters experienced during the Primary were preventable. To remediate mail-in ballot issues, elections staff and vendors should have a dynamic quality control process that involves stakeholders, especially before printing and mailing in bulk. If not done already, additional efforts should be made to secure a state-based vendor. Stakeholders involved in this process should include staff of the state and local boards of elections and representatives of historically disenfranchised populations for equity, accessibility, and accountability considerations.

Invest in our voting infrastructure

An optimal voting infrastructure maximizes voter participation by providing elections that are easy to understand and navigate, free from barriers and errors, and well-resourced.

The importance of our democracy and the right to vote should be reflected in the way we fund and resource our elections. Our elections need ample staff, equipment, communications and outreach, technology innovation and support, and more. Unfortunately, not all polling locations have the resources they need to be fully functional during election season. Local boards of elections across the state struggled to recruit and train enough election judges and poll workers. We see long lines, polls opening late, and other issues in the same places every election year and those places are almost always majority-Black areas of our state. Equitable funding and resource allocation would create accessible and fair voting across the state.

All Marylanders deserve to exercise their constitutional right to vote regardless of the challenges they face in their lives. An equitable election must include robust voting options for individuals in jails, prisons, hospitals, nursing homes, and other confined housing around the state. Increasing access to voting for those who have the right to vote but cannot fully participate because they are incarcerated and expanding the right to vote to people with felony convictions would get us closer to our democratic values of one person, one vote. Across the state, BIPOC communities have limited and unequal access to representation. We need an election infrastructure that supports full participation and representation for all residents in our state.

RECOMMENDATIONS

Create protections for fair and racially equitable elections

Notwithstanding Maryland's progressive reputation nationally, many jurisdictions in Maryland have a history of troubling conduct when it comes to race and the right to vote. Maryland's history of discrimination includes English literacy tests, property ownership requirements and entitlements linked to voting, as well as criminal justice-related disenfranchisement laws, some of which are still in force today. Some local jurisdictions still use at-large elections which can empower a white majority to capture most or all seats, even where there is a substantial population of Voters of Color. And during the 2021 redistricting (as described above), several counties created racially discriminatory election districts.

Unfortunately, many voting rights abuses and discriminatory structures persist simply because the legal tools and resources to investigate and prosecute them have been unavailable or too costly. This is happening in part because judicial decisions over the last 30 years have chipped away at protections under the federal Voting Rights Act.

Maryland should enact its own fully-effective Voting Rights Act to ensure protection of the voting rights of BIPOC people and communities no matter what damage the U.S. Supreme Court does to undermine the federal Voting Rights Act.

Through a state Voting Rights Act, Maryland can continue its march toward becoming a nationwide leader in promoting equal access to political participation. This will enable our state to confront evolving barriers to effective participation, and to root out longstanding discriminatory practices more effectively. A state VRA will offer affirmative steps to make our democracy more inclusive and robust by creating a fulsome and transparent basis for data-driven evaluation of our election practices.

Expand the right to vote to all Marylanders

Maryland must cut the ties between a person's involvement in the criminal justice system and their right to vote. Racism plagues our criminal legal system and Maryland continues to have devastating racial disparities in policing, sentencing, and incarceration statistics. That is why hinging the right to vote on a system that disproportionately impacts Black and Brown people and communities is not only dehumanizing, but it also compounds the marginalization of communities by minimizing the political power of the families and communities most impacted by the policies on the ballot. We must realize the democratic value of one person, one vote by expanding the right to vote to all Marylanders.

CREDITS

The ACLU of Maryland's Election Protection Campaign would like to thank all of the ACLU staff, interns, and volunteers who contributed to the work detailed in this report. It was truly a team effort, and the Election Protection Campaign greatly appreciates your commitment to advancing voting rights and ensuring fair and equitable elections for all Marylanders in 2022.