



NEWS

Sign In

Find the Best Country for You: » Take Our Quiz

Home / News / Politics / Noncitizen Voting: the Fiction ...

## Sorting the Fiction From the Facts About Noncitizen Voting

GOP lawmakers have signaled their intention to elevate the issue ahead of the November election, despite scant evidence that it has ever been a problem before.



By Aneeta Mathur-Ashton | May 24, 2024

Save

Comment



LinkedIn

Reddit



FREDERIC J. BROWN | GETTY IMAGES

Voters cast their ballots for Early Voting at the Los Angeles County Registrar's Office, Nov. 5, 2018, in Norwalk, Calif.

House Republicans are turning their election-year ire to noncitizen voting, an issue merging two talking points that outrage and energize their base but which data suggests has never really before been a problem.

Lawmakers emboldened by GOP voters' concerns about flagging border security and former President [Donald Trump](#)'s claims of widespread fraud at the ballot box acted on two bills this week that signal their intention to elevate the issue ahead of the [November election](#).

#### Recommended Videos

Powered by AnyClip



#### NOW PLAYING

George Clooney...



The first is a bill that would repeal a 2022 measure passed by the D.C. Council, the local legislative body in the nation's capital, that allowed people who are not U.S. citizens to vote in local elections. Because of the District's status as a federal enclave, its local laws are subject to congressional review. The bill passed the House on a 262-143 vote.

The second is a law that would [require federal agencies](#) to provide state elections officials with information to verify a person's citizenship upon request when that person attempts to register to vote.

While the bills echo a favorite claim from Republicans regarding election fraud, several years of research and data suggest that the problem they attempt to solve up to now has been so rare as to be insignificant.

Here's what to know about the current laws for registering to vote, noncitizen voting and Republican claims about it.

## What Is Current Voter Registration Law?

In the broadest terms, a person can vote in federal, state and local elections [if](#) they are a U.S. citizen, meet the residency requirements of the state they reside in, are 18 years old on or before the day of the election and are registered to vote by the state's voter registration deadline.

Federal law also requires all voter registration forms to advise those signing up that they must swear they are a citizen under penalty of perjury. And in 1996, Congress passed a broad [immigration](#) law that explicitly banned noncitizen voting in federal elections, making it punishable by up to a year in prison.

However, states and localities have latitude to set their own election requirements. And in some places, those lawmakers have adopted differing postures on issues like whether to allow convicted felons or minors to vote.

The city of Takoma Park, Maryland, in 1992 became the first to allow people who are

not U.S. citizens to vote in local contests, arguing that all residents have a stake in municipal decision-making. According to Ballotpedia, [a handful of municipalities](#) in Maryland, California and Vermont along with the District of Columbia have approved the practice for things like school board and local office elections. Important to note is that not all noncitizens are people in the country illegally, and some jurisdictions that allow the practice require those who wish to vote to be legal residents or have children in local schools.

►► [READ: GOP Gears Up for White House Fight](#)

## What Are Republicans Claiming?

During a recent visit to Trump's Mar-a-Lago estate, House Speaker Mike Johnson outlined a conspiracy theory by which the Biden administration has fostered the steady flow of migrants across the southern border in order to illegally register them to vote. It has since become a House GOP legislative priority.

"There is currently an unprecedented and a clear and present danger to the integrity of our election system – and that is the threat of noncitizens and illegal aliens voting in our elections," Johnson said during a press conference on the steps of the Capitol just weeks ago.

However, he acknowledged that he lacked the evidence to support the claim.

"We all know, intuitively, that a lot of illegals are voting in federal elections, but it's not been something that is easily provable," Johnson said. "We don't have that number."

Republican Rep. Chip Roy of Texas, a vocal member of the far-right House Freedom Caucus, toed the GOP line when he painted the issue as fundamental to democracy, saying secure elections "are a key cornerstone for any representative government; without them, we won't have a country."

"Radical progressive Democrats know this and are using open border policies while also attacking election integrity laws to fundamentally remake America," he said in a [statement](#) this month.

## What Does the Data Say?

Almost all available data says that noncitizen voting in federal elections, though not unprecedented, is incredibly rare.

In 2016, North Carolina audited its elections and found that 41 legal immigrants had cast ballots despite not yet being citizens out of 4.8 million votes cast. The state's election board found that the votes made no difference in any state election.

Georgia's Republican Secretary of State Brad Raffensperger conducted an audit of the state's voter rolls in 2022 and found that 1,634 had attempted to register but all were caught and none were actually registered.

### Who Is Running for President?

Former President Donald Trump is the nominee on the Republican side while Vice President Kamala Harris is the leader of the pack for Democrats following President Joe Biden's withdrawal from the race.

U.S. News Staff Aug. 16, 2024



A recent study in Arizona, first reported by [The Washington Post](#), found that less than 1% of noncitizens in the state attempted to register and that even in those instances the vast majority were believed to be mistakes.

The Brennan Center for Justice, a nonpartisan law and policy institute based in the nation's capital, surveyed 44 election officials located in some of the most populated and immigrant-heavy areas after 2016 and found 30 incidents out of 23.5 million votes cast.

Sean Morales-Doyle, director of the voting rights program at the center, says that on the rare occasions that it does happen, "it's caught and prosecuted, and in most of those circumstances, it turns out that the person who registered to vote did so by accident."

Yet despite the data proving otherwise, The [Voting Rights Lab](#), a liberal group tracking voting legislation, says that since the 2020 election, nine states have enacted new laws targeting the issue and legislation is currently active in 16 states.

## A Hidden Agenda?

Sorting the Fiction from the Facts About Noncitizen Voting | Politics ... <https://www.usnews.com/news/politics/articles/2024-05-24/sorting-the>

Republicans have long advanced more restrictive voting laws, arguing that they are meant to ensure the integrity of elections. But critics argue that such efforts are “actually about voter suppression” because they target minority populations – populations that historically are more likely to vote Democratic.

“Many Latinos, especially seniors, don't have cars. So they don't have a driver's license sometimes. Therefore, them having proof of citizenship, whether it's a birth certificate or some type of ID is difficult. And the same thing happens in the African American community. So it disproportionately impacts minority communities of legal U.S. citizens, who are sometimes denied the right to vote because they don't have an ID,” says Domingo Garcia, the national president of the League of United Latin American Citizens.

Trump, despite winning the Electoral College vote in 2016 claimed his loss in the popular vote to Democrat Hillary Clinton was due to illegally cast votes. He appointed a commission to investigate the issue, but it was disbanded without finding [evidence of widespread fraud](#).

The issue escalated dramatically since 2020, after Trump lost his reelection bid to President Joe Biden. His associates pushed unfounded claims of election fraud involving ballots cast by dead people, manipulated mail-in voting and multiple trips to the polls that were repeatedly debunked even in Republican states.

►► **READ:** [Election Deniers Moving Closer to GOP Mainstream](#)

Yet that hasn't tempered GOP claims ahead of the 2024 vote, with Republicans warning that this year is different and drawing a tenuous link between Trump's preemptive claims of potential election fraud and Biden's management of the southern border.

Some see connections to what's known as the “great replacement” theory, a racist conspiracy that alleges a plot to erase the power of white Americans through the immigration of people of color. Both trace their history back to myths over the last 100 years alleging that immigrants are exerting unfair influence over elections.

Ron Hayduk, a professor of political science at San Francisco State University who specializes in the issue of noncitizen voting, says that despite Republicans claiming this time around is different, it actually is not.



"In fact, my research shows, it's remarkably, eerily reminiscent of the 19th century. In the 19th century, it was mostly conservative groups and Republicans that made similar allegations of vote fraud, including and especially by noncitizens," Hayduk says. "They used those allegations of vote fraud, which had little evidence like today, to justify the imposition of a remarkable number of restrictive voting rules, which did in fact depress turnout voting rules."

Hayduk adds that with the instances being "infinitesimal at most," the proposed solutions raise the logical conclusion that they "serve other purposes."

"If you look at it, what these proposals actually seek to do is restrict access to the vote by citizens, including and especially, of course, groups aligned with Democrats – low income, minority, urban voters," says Hayduk. "Some of the proposals that they seek to impose, like proof of citizenship, would require documentation that many people don't readily have."

He suggests that the reforms are more likely seeking to "depress turnout among Democratic constituents and increase turnout of the GOP base."

## Looking to November

Garcia says the issue is like "a boogeyman that's been made up to scare Republican voters that all these immigrants are coming and they're all being allowed to vote."

He suggests that it supports Trump's theory that the election is being stolen and that if he loses in November it must be because Biden was cheating.

"First of all, nobody's going to risk being sent to prison to vote. And No. 2, you can't register to vote if you're not a U.S. citizen and you don't show proof," he says. "So again, it's a solution looking for a problem that doesn't exist."

Nevertheless, the flow of legislation – federal, state and local – looking to bolster election security appears poised to continue unabated, as will the urgent warnings of U.S. exposure to ballot fraud in connection with shortcomings in border security.

►► **READ:** [Republicans Push to Exclude Noncitizens From the Census](#)

Morales-Doyle says it's "not an accident" that the issue is coming up now, adding that

it isn't because something has changed with it but because Trump is back on the ticket.

"He knows that this lie pulls together two pieces of his favorite rhetoric on the campaign trail: one is anti-immigrant sentiment, xenophobia, racism, aimed at immigrants. And the other is election denialism, lies about our elections," he says. "And this particular lie pulls those two threads together and that's why we're hearing a lot about it now."

He adds that Republicans are introducing the bills "not because they actually think it will get passed and not because it will actually solve a problem but in order to undermine faith in our elections, to spread that lie."

"This lie among many others that are told to undermine faith in our elections now are laying the groundwork for people to later question the outcome of our elections," Morales-Doyle says. "This is a playbook we saw play out in 2020. And we're seeing it again now."

---

## Join the Conversation

[See Comments](#)

Tags: elections, voters, Congress, 2024 presidential election, Republican Party



**COLUMNISTS | Opinion**

*This piece represents a collection of opinions from various sources, separate from those of this publication.*

**Elections****Add Topic**

# Republicans really want you to think noncitizens are voting in droves. They're not.

*In 2016, North Carolina found that 41 legal immigrants who had not yet become citizens cast ballots. That's out of 4.8 million votes cast.*

**Sara Pequeño** USA TODAY

Published 4:05 a.m. ET July 11, 2024 | Updated 4:05 a.m. ET July 11, 2024

Another week, another group of Republicans trying to stir up controversy for the sake of winning votes.

North Carolina Republicans passed a ballot initiative that would change the wording of the state constitution, clarifying that “only a citizen of the United States” who meets all of the requirements can vote.

The problem? That's what the law already says.

They aren't the only state Republicans pushing a ballot measure on this. Idaho, Iowa, Kentucky, Missouri, Oklahoma, South Carolina and Wisconsin are also trying to make noncitizen voting an issue for the November election. A bill on the same topic passed in the U.S. House of Representatives on Wednesday.

They all have one thing in common. They're trying to fix a problem that doesn't exist as part of the ongoing scare tactics campaign Republicans are committed to.

## The SAVE Act passes in the House

The Safeguard American Voter Eligibility Act bill on noncitizen voting was passed in the House on Wednesday. The bill is aligned with the anti-immigrant stances outlined in Project 2025 and the new Republican platform.

It's also directly in line with former President Donald Trump's campaign messaging.

"Republicans must pass the Save Act, or go home and cry yourself to sleep," Trump posted on social media this week.

Not only does the bill stigmatize a whole group of people, it would create headaches for potential voters across the country by requiring proof of U.S. citizenship, like passports and birth certificates, when registering to vote.

**MAGA governor?** North Carolina is on the verge of getting a MAGA governor. Why do we let this happen?

While the bill passed 221-198, it still has to go to the Senate before it goes to the White House. The Biden administration has said that it opposes the legislation.

Unfortunately, that won't stop what's happening in North Carolina and other states.

## **Noncitizen voting is largely a nonissue**

It's a pretty well-known fact that noncitizens are unable to vote in our elections. You can't even register to vote if you are not a U.S. citizen – it asks as much on voter registration forms.

The North Carolina Constitution already says it, declaring that "every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided."

The reality is that noncitizen voting is pretty rare.

**Trump's unhinged rally:** I can't wait for all of the media coverage of Trump's confusing Tuesday night rally

One dataset that Republicans have typically touted – that more than 6% of votes are cast by noncitizens – is flawed. Researchers have said as much.

North Carolina audited its 2016 election results and found that out of 4.8 million votes cast, there were just 41 instances of legal immigrants – people who were most likely waiting to become naturalized citizens – voting fraudulently. That's probably because people don't think voting is worth the risk of being deported or going to jail.

So why rewrite the law? Because it's how you juice voter turnout – and keep your political enemies disenfranchised.

## North Carolina has bigger issues

The new version of the North Carolina Constitution, which will be voted on in November, changes "every person born in the United States" to "only a citizen of the United States" – i.e., people who were born here or are naturalized citizens.

This is the same state whose constitution still includes language about only recognizing unions between "one man and one woman." It's the same state that mandates abstinence should be taught in sex education. Those things may be worth fixing before the state moves to adjust language that pretty clearly serves its intended purpose. But maybe causing fear in your base is better for votes?

If the Republicans are really worried about wording, they should talk to gubernatorial candidate Mark Robinson, who recently said that some people "need killing." Or their candidate for state superintendent, Michele Morrow, who attended the "Stop the Steal" rally that preceded attack on the U.S. Capitol on Jan. 6, 2021, and calls public schools "indoctrination centers."

It's clear that the state Republican Party is struggling to give voters reasons to show up. Republicans already have a supermajority in both legislative chambers and a majority on the state Supreme Court.

Trump won North Carolina in 2016 and 2020 and is poised to win in November if various polls are to be believed. Aside from Republicans' track record, the state's economy is one of the best in the country – it's not like they can use that to turn out their base.

Instead, they'd rather demonize a marginalized group of people and stoke fear.

*Follow USA TODAY elections columnist Sara Pequeño on X, formerly Twitter, @sara\_\_pequeno and Facebook [facebook.com/PequenoWrites](https://www.facebook.com/PequenoWrites)*



Home // Our Work // Analysis & Opinion // Why the Myth of Noncitizen Voting Persists

ANALYSIS

# Why the Myth of Noncitizen Voting Persists

Cynical political operatives are stirring these rumors for their own gain.



Defend Our Elections

■ Election Integrity



Michael Waldman

August 21, 2024

You're reading The Briefing, Michael Waldman's weekly newsletter. Click [here](#) to receive it in your inbox.

The scary and entirely imaginary notion that millions of noncitizens will vote in November is the most widespread rumor in our politics. It did not just emerge from the fever swamps of the dark web. Rather, it's a conspiracy theory being pushed, it's now clear, by leading political figures for partisan gain.

On Sunday, the *New York Times* reported that former President Donald Trump and Sen. JD Vance are pushing hard the false claim that millions of noncitizens will vote in this election. "When [Kamala Harris] let in millions of illegal aliens," Vance told a rally in Michigan, "it made our communities less safe — but it did give the Democrats a lot of voters."

The story paints a disturbing picture that goes beyond the candidates' claims. Reporter Jazmine Ulloa interviewed voters who said they believed the rumors. "There has got to be a reason they are letting so many people in," one told her.

It's worth saying, once again, that the notion of widespread noncitizen voting is a lie. An urban myth. It's simply not true. States have a multiplicity of systems in place to prevent it from happening. Noncitizen voting is illegal four times over, and the reality is that it's **incredibly rare**. My colleagues at the Brennan Center have **compiled these resources** on the topic. We're fighting fear with facts.

Yet the idea persists. Why?

Donald Trump has fanned this flame for years. In 2016 — an election he won — he claimed that he really had won the popular vote when you "subtract" what he said were millions of illegal voters.

This fallacy seems to be explicitly designed to sow doubt about the election and its integrity among a wide swath of the voting public. As I told Congress a few months ago, the Big Lie is being **pre-deployed** ahead of the 2024 election. Donald Trump Jr. told *Axios* in July that Democrats can only win this November by "cheating." If millions of Americans believe that there was massive fraud, it will be easier to try to get county election boards to refuse to certify results, state legislators to intervene, or partisan judges to act.

The myth of rampant noncitizen voting also aims to propel voter suppression measures. Recently, the House passed a bill that lays the groundwork to ultimately require citizens to produce a passport or a birth certificate to register to vote. Millions of eligible Americans don't have ready access to that paperwork. When you have a "cure" like that, you'd better invent the disease.

But there's something even uglier at work. More than past rumors about voting machines and ballots, this conspiracy theory taps into innate racism and xenophobia. It plays on the idea that white people

are threatened by the possibility that nonwhite people will take over the country. It echoes fears of fraud from earlier waves of immigration, in that case by Irish, Italian, and other European immigrants. It exploits a pressing social challenge — the surge of unlawful southern border crossings and the arrival of millions of migrants — which is the product of vast social and economic forces within and outside our country. And, as in populist movements in earlier eras, it links legitimate public concerns to a conspiracy theory: someone powerful must be enacting a sinister plot.

The great historian Richard Hofstadter described the “paranoid style” in American politics in 1964. “I call it the paranoid style simply because no other word adequately evokes the sense of heated exaggeration, suspiciousness, and conspiratorial fantasy that I have in mind.” He was writing as Americans sought to make sense of authoritarian movements abroad, and movements at home such as McCarthyism and the John Birch Society.

The paranoid style has reemerged. Like many Jewish people, I was a bit baffled when the white nationalists in Charlottesville marched in 2017 chanting “Jews will not replace us.” What they meant was that Jewish elites — who purportedly controlled the government and media — were importing nonwhite people to replace the long-standing white majority. At times, as on the broadcasts of Tucker Carlson, this imaginary scenario is attributed to specific Jews, such as financier George Soros.

It can be agonizingly difficult to rebut a rumor. As Mark Twain reputedly said, “A lie gets halfway around the world before the truth has time to put on its boots.” When fearful people, preyed upon by politicians, hold fast to a misguided idea, it usually doesn’t help to tell them that they’ve been duped.

For now, the most important thing we can all do is bolster the strength and credibility of our election system. Public servants who run elections are still the most trusted voices to explain that elections are fair, free, and accurate. We should all back them up as they come under withering assault, facing abuse and threats of violence.

And we should never tire of pointing out that cynical and aggressive political operatives are stirring these rumors for their own gain.



## RELATED ISSUES:



### Defend Our Elections

- Election Integrity

#### ANALYSIS

## The Big Lies at the Debate

We correct the record on the 2020 election and crime rates.

**Michael Waldman** // September 11, 2024

#### ANALYSIS

## From the People Who Brought You Project 2025: Manufactured Evidence of Voter Fraud

While the Heritage Foundation has previously spread disinformation about purported noncitizen voting, the organization has now turned to desperate measures in search of nonexistent voter fraud.

**Jasleen Singh** // September 10, 2024

## What Georgia Tells Us About the 2024 Election Subversion Campaign

August 22, 2024 // Andrew Garber, Wendy R. Weiser

## Election Deniers on the March in Georgia

August 14, 2024 // Michael Waldman

## Election Deniers Continue Attempts to Meddle with Certification – But the Process Is Resilient

August 8, 2024 // Lauren Miller Karalunas, Kendall Karson Verhovek

## Elon Musk's Grok Spreads False Election Information

August 7, 2024 // Derek Tisler, Alice Clapman

## Election Officials in Communities of Color Face More Abuse

July 17, 2024 // Ruby Edlin, Lawrence Norden

#### MORE NEWS & ANALYSIS

BRENNAN  
CENTER  
FOR JUSTICE  
TWENTY  
YEARS

NONCITIZEN VOTING:  
THE MISSING MILLIONS

Christopher Famighetti, Douglas Keith and Myrna Pérez

## ABOUT THE BRENNAN CENTER FOR JUSTICE

The Brennan Center for Justice at NYU School of Law is a nonpartisan law and policy institute that seeks to improve our systems of democracy and justice. We work to hold our political institutions and laws accountable to the twin American ideals of democracy and equal justice for all. The Center's work ranges from voting rights to campaign finance reform, from ending mass incarceration to preserving Constitutional protection in the fight against terrorism. Part think tank, part advocacy group, part cutting-edge communications hub, we start with rigorous research. We craft innovative policies. And we fight for them — in Congress and the states, the courts, and in the court of public opinion.

## ABOUT THE BRENNAN CENTER'S DEMOCRACY PROGRAM

The Brennan Center's Democracy Program works to repair the broken systems of American democracy. We encourage broad citizen participation by promoting voting and campaign finance reform. We work to secure fair courts and to advance a First Amendment jurisprudence that puts the rights of citizens — not special interests — at the center of our democracy. We collaborate with grassroots groups, advocacy organizations, and government officials to eliminate the obstacles to an effective democracy.

## ABOUT THE BRENNAN CENTER'S PUBLICATIONS

**Red cover** | Research reports offer in-depth empirical findings.

**Blue cover** | Policy proposals offer innovative, concrete reform solutions.

**White cover** | White papers offer a compelling analysis of a pressing legal or policy issue.

## ABOUT THE AUTHORS

**Christopher Famighetti** is a Policy and Research Analyst for the Democracy Program at the Brennan Center for Justice, researching the impact of laws and policies on access to the polls, with a particular focus on demographic disparities, long lines and voting technology. He also contributes research on campaign fundraising and spending for the Center's Money in Politics program. Prior to joining the Brennan Center, Mr. Famighetti worked to support labor, community, and political campaigns as a strategic researcher and organizer. He has a B.A. from Bard College in Languages and Literature, has a M.S. in Urban Policy from the New School, and has served as Adjunct Sociology Faculty at Montclair State University.

**Douglas Keith** is the Katz Fellow in the Brennan Center's Democracy Program. He co-authored the Brennan Center's reports *Secret Spending in the States* (2016), and *Five to Four* (2016) as well as pieces in *The Atlantic*, and *TIME*. Prior to joining the Brennan Center, he worked on voting rights litigation as a Ford Foundation Public Interest Law Fellow at Advancement Project, trained poll workers for the New York City Board of Elections, and organized election reform advocates in New York. He has also observed and analyzed democratic systems in North and West Africa, Central Asia and Eastern Europe. He received his J.D. from New York University School of Law.

**Myrna Pérez** is Deputy Director of the Democracy Program at the Brennan Center for Justice, where she leads the Voting Rights and Elections project. She has authored several nationally recognized reports and articles related to voting rights, including *Election Integrity: A Pro-Voter Agenda* (January 2016), *Election Day Long Lines: Resource Allocation* (September 2014), and *If Section 5 Fails: New Voting Implications* (June 2013). Her work has been featured in media outlets across the country, including the *New York Times*, *Wall Street Journal*, MSNBC, Christian Science Monitor, and HuffPost. Prior to joining the Center, Ms. Pérez was the Civil Rights Fellow at Relman & Dane, a civil rights law firm in Washington, D.C. Ms. Pérez graduated from Columbia Law School in 2003, where she was a Lowenstein Public Interest Fellow. Following law school, Ms. Pérez clerked for the Honorable Anita B. Brody of the United States District Court for the Eastern District of Pennsylvania and for the Honorable Julio M. Fuentes of the United States Court of Appeals for the Third Circuit. Ms. Pérez earned her undergraduate degree in Political Science from Yale University in 1996. She obtained a master's degree in public policy from Harvard University's Kennedy School of Government in 1998, where she was the recipient of the Robert F. Kennedy Award for Excellence in Public Service. Prior to law school, she was a Presidential Management Fellow, serving as a policy analyst for the United States Government Accounting Office where she covered a range of issues including housing and health care. She is an adjunct professor at Columbia Law School.



## ACKNOWLEDGEMENTS

The Brennan Center gratefully acknowledges The Bauman Foundation, Bohemian Foundation, Change Happens Foundation, Hannah LF Cooper, craigslist Charitable Fund, Democracy Alliance Partners, FJC - A Foundation of Philanthropic Funds, Ford Foundation, Peggy and Richard Greenfield, The Charles Evans Hughes Memorial Foundation, Audrey and Sydney Irmas Foundation, the Joyce Foundation, The JPB Foundation, The Karsten Family Foundation, Susheel Kirpalani, The Kohlberg Foundation, the John D. and Catherine T. MacArthur Foundation, The Mai Family Foundation, The Mertz Gilmore Foundation, Nancy Meyer and Marc Weiss, The John and Wendy Neu Foundation, Open Society Foundations, The Schmale Family, The Schooner Foundation, Solidarity Giving, the Bernard and Anne Spitzer Charitable Trust, David and Liz Ehrenfest Steinglass, Barbra Streisand, Vital Projects Fund, Wachtell, Lipton, Rosen & Katz, Wallace Global Fund, and Wendy C. Wolf for their generous support of our voting work.

The authors would like to thank the many Brennan Center colleagues who made this report possible. Brennan Center President Michael Waldman and Wendy Weiser, Director of the Brennan Center's Democracy Program, were indispensable sources of guidance, strategic thinking, and editorial advice. Brennan Center Vice President Vivien Watts contributed outreach support at key moments. Research and Program Associates Phoenix Rice-Johnson and Michael Pelle helped research and code for the report. Phoenix Rice-Johnson, Nathaniel Sobel, Dana Brandes-Simon, and Suprita Datta assisted in interviewing election officials. Beatriz Aldereguia assisted with outreach and Aaron Mundy provided research assistance. Jim Lyons, Raffe Jefferson, and Rebecca Autrey provided helpful editorial assistance. Ryan Witcombe's creativity and design skills brought this report to the finish line.

The authors would also like to thank the many local election administrators (and their schedulers) who took time away from their busy job of running elections to be interviewed for this report. Finally, the authors would like to thank the League of Women Voters of Florida and Miami-Dade County, as well as Chad Dunn, who provided assistance in connecting us to election officials.





## **TABLE OF CONTENTS**

<b>I.</b>	<b>INTRODUCTION AND FINDINGS</b>	<b>1</b>
<b>II.</b>	<b>METHODOLOGY</b>	<b>3</b>
<b>III.</b>	<b>HOW ELECTION ADMINISTRATORS DETECT AND PREVENT FRAUD</b>	<b>6</b>
<b>IV.</b>	<b>OVERBLOWN AND EXAGGERATED CLAIMS OF FRAUD UNDERMINE ELECTION ADMINISTRATION</b>	<b>8</b>
	<b>Conclusion</b>	<b>9</b>
	<b>Endotes</b>	<b>11</b>
	<b>Appendix</b>	<b>15</b>

1

— *Continued*

—

6

4

;

•

•

•

1

## I. INTRODUCTION AND FINDINGS

In 2016, for the first time, presidential politics was roiled by claims of widespread illegal voting. In the weeks after the election, the claims continued. President-elect Trump insisted, “In addition to winning the Electoral College in a landslide, I won the popular vote if you deduct the millions of people who voted illegally.”<sup>1</sup> On that same day, four hours later, he added, “Serious voter fraud in Virginia, New Hampshire and California — so why isn’t the media reporting on this? Serious bias — big problem!”<sup>2</sup> After his inauguration, the claims escalated. “I will be asking for a major investigation into VOTER FRAUD,” he declared.<sup>3</sup>

As time passed, Trump’s claim grew more specific and more exaggerated. On Feb. 9th, he told a group of 10 senators that ineligible persons had voted in droves, and that they had been driven in buses by the thousands from Massachusetts to New Hampshire.<sup>4</sup> White House Press Secretary Sean Spicer defended and reiterated the claims of voting by noncitizens.<sup>5</sup> Senior policy advisor Stephen Miller toured the Sunday morning news interview shows to defend the claim.<sup>6</sup> The White House asserted that these claims required an investigation, to be led by Vice President Mike Pence.<sup>7</sup> In a March 22nd interview with *TIME*, the president said that he believes he will be proven right and that he is moving forward with the investigative committee.<sup>8</sup> In late April, Spicer told CNN that he expects news on the voter fraud investigation in the “next week or two,” and that Pence will still be “very involved.”<sup>9</sup>

Are the president’s claims plausible? The Brennan Center reached out systematically to those who would know best: the local officials who actually ran the election in 2016. These officials are in the best position to detect improper voting — by noncitizens or any other kind. To make sure we were speaking to the right individuals, this study relies on interviews with officials who ran the elections in jurisdictions (towns, cities, or counties) nationwide with the highest share of noncitizen residents, and those in states identified by Trump as the locus of supposed misconduct. We interviewed a total of 44 administrators representing 42 jurisdictions in 12 states, including officials in eight of the 10 jurisdictions with the largest populations of noncitizens nationally.<sup>10</sup>

Our nationwide study of noncitizen or fraudulent voting in 2016 from the perspective of local election officials found:

- In the jurisdictions we studied, very few noncitizens voted in the 2016 election. Across 42 jurisdictions, election officials who oversaw the tabulation of 23.5 million votes in the 2016 general election referred only an estimated 30 incidents of suspected noncitizen voting for further investigation or prosecution. In other words, improper noncitizen votes accounted for 0.0001 percent of the 2016 votes in those jurisdictions.
- Forty of the jurisdictions — all but two of the 42 we studied — reported no known incidents of noncitizen voting in 2016. All of the officials we spoke with said that the incidence of noncitizen voting in prior years was not significantly greater than in 2016.

- In the 10 counties with the largest populations of noncitizens in 2016, only one reported any instances of noncitizen voting, consisting of fewer than 10 votes, and New York City, home to two of the counties, declined to provide any information.
- In California, Virginia and New Hampshire — the states where Trump claimed the problem of noncitizen voting was especially acute — no official we spoke with identified an incident of noncitizen voting in 2016.

The absence of fraud reinforces a wide consensus among scholars, journalists and election administrators: voter fraud of any kind, including noncitizen voting, is rare.

Two features of this study stand out.

It is the first analysis to look at voting from the perspective of local officials in 2016 — the year that Trump claimed was marred by widespread illegal voting.

Why speak with local officials? In the United States, elections are administered within local jurisdictions — counties, cities, and townships. These bodies and their officials run elections, process registration applications, and directly deal with voters. To be sure, local elections officials may not be aware of every incident of ineligible voting, and the tools at their disposal are imperfect, but they remain well-positioned to account for what is happening in the area they oversee.

Second, this study casts a wider net than studies focusing on prosecutions or convictions. It identifies both those who voted improperly by mistake, and those who did so with malicious intent. We asked administrators both the number of incidents of noncitizen voting they referred for prosecution or further investigation, and the number of suspected incidents they encountered but did not refer in 2016. In all but two of 42 possible jurisdictions, the answers to both questions were zero. Some who claim widespread misconduct insist that, because prosecution is hard, there is likely a much wider pool of people who were caught voting improperly, but who simply were not prosecuted. This study finds that both the number of people referred for prosecution and the number of people merely suspected of improper voting are very small.

## II. METHODOLOGY

Three Brennan Center researchers spoke to election officials in 42 jurisdictions. The researchers sought to quantify every credible instance of noncitizen voting seen by those officials, even if those instances did not result in a conviction. In addition, the researchers sought to assess whether fraud, more generally, was widespread. We spoke to local election officials as opposed to state-level administrators or prosecutors because in the United States, elections are run within counties, cities, and townships.

### Interview Protocols

The Brennan Center conducted in-depth interviews with more than 40 election officials. We interviewed all but two of the jurisdictions by phone; the remaining two jurisdictions provided answers via e-mail. We standardized the interview process by asking the primary questions in the same wording and order. During each interview, we queried election officials on a standard set of questions regarding the scope of their professional experience in election administration, prevalence of noncitizen voting, and prevalence of fraud generally. We asked the officials to quantify three scenarios involving noncitizen voting: (1) the number of cases of noncitizen voting referred for prosecution or further investigation in 2016; (2) the number of cases of noncitizen voting referred for prosecution or further investigation over their careers; (3) the number of cases of noncitizen voting officials encountered in 2016, but did not refer. In addition, we asked for any explanations the administrator had for why noncitizen voting occurred at whatever rate described. During the interview, where appropriate, we asked follow up questions, to focus responses and gather contextual data. After all the interviews were conducted, we sought confirmation in writing from the administrators that the information captured from the interviews was accurate, and to promote standardization of the responses collected.

In addition to questions about noncitizen voting, we asked about voter fraud more generally. The responses to these questions were not specific enough to warrant additional findings, though officials were nearly unanimous in reporting that there was no widespread voter fraud in their jurisdictions. One official, however, reported that as many as 700 persons may have improperly voted in both political parties' primaries in early 2016. We do not have enough information to substantiate those numbers. No official reported significant numbers of persons voting twice in the same election, or voting under another person's name.

### Selection of Jurisdictions

We selected the jurisdictions included in this analysis according to two criteria. For the first criterion, we selected a nationwide set of jurisdictions with large adult noncitizen populations.<sup>11</sup> We started with a list of the 44 counties with more than 100,000 adult noncitizens. We reached out to these counties via phone and email to schedule interviews. Based on this outreach, we were able to conduct interviews with election officials from 27 of the 44 counties, including eight of the 10 counties with the largest populations of noncitizens in the country.<sup>12</sup> The New York City Board of Elections, home to the two remaining counties with the 10 largest noncitizen populations, declined to participate in this research.

For the second criterion, we focused on the three states — California, New Hampshire and Virginia<sup>13</sup> — that Trump expressly singled out as having widespread noncitizens voting in 2016. For these states, we selected a geographically and demographically diverse set of five jurisdictions: (1) at least two jurisdictions with large numbers of adult noncitizens, (2) at least two other jurisdictions with a high percentage of adult noncitizens and (3) at least one rural<sup>14</sup> or sparsely populated jurisdiction with a comparatively high percentage of adult noncitizens.<sup>15</sup> The jurisdictions interviewed can be found in the appendix.

### **Accounting for Limitations**

This study faced two potential methodological concerns: (1) the problem of selection bias, in other words, the concern that the jurisdictions willing to be interviewed differed too much from jurisdictions that refused to participate, and (2) the problem of response bias, in other words, that the numerical responses given to us by the officials were inaccurate.

We made efforts to detect any evidence of either of these problems. Regarding selection bias, we examined any known partisan affiliation of the responders, and discovered that few, if any, ran for their position under a partisan banner. Forty of our 44 interviewees were either appointed to their positions or won their seats in non-partisan contests. Most have longstanding careers in election administration. We also reviewed the literature of noncitizen voting and fraud to see if any credible reports of recent systemic fraud would be captured if we had more responses from jurisdictions that have more than 100,000 noncitizens. We acknowledge that the refusal of the New York City Board of Elections to provide the requested information is noteworthy, but we nevertheless believe there are enough jurisdictions involved to be comfortable that the results we obtained are consistent with prior studies finding noncitizen voting to be rare.

Relatedly, we attempted to detect response bias by comparing our findings to those of other recent studies that use a variety of other methodologies. We reviewed comprehensive analyses of referrals, investigations, and prosecutions for election-related offenses covering each of the states in which we spoke with administrators.<sup>16</sup> We were prepared to ask the election officials to explain any discrepancies if other sources were meaningfully out of sync with their estimates, but as it happens, in all but one instance, there was no cause to do so.

For example, three Secretaries of State have recently made very public allegations of noncitizens voting, albeit on a much smaller scale than what Trump has said. On Feb. 27th, Ohio Secretary of State Jon Husted (R) claimed to have identified 82 noncitizens that had voted in at least one past election, but he did not indicate how many elections he examined or specify that any of that fraud happened in 2016.<sup>17</sup> On April 19th, Nevada's Secretary of State Barbara Cegavske (R) reported that a statewide audit found that three noncitizens had voted in the 2016 election.<sup>18</sup> On April 21st, the North Carolina State Board of Elections, comprised of three Republicans and two Democrats, reported 41 noncitizens cast ballots in November.<sup>19</sup> Even if true,<sup>20</sup> those numbers reaffirm that noncitizen voting is extraordinarily rare because the incidents of noncitizen voting alleged in Ohio, Nevada, and North Carolina amount to,

at most, .0015, .0003, and .0009 percent of ballots in those states respectively in 2016.<sup>21</sup> The Brennan Center did note that the Nevada Secretary of State's analysis identified three more possible instances of noncitizen voting in Clark County than Clark County Registrar of Voters, Joe Gloria, reported during our initial interview.<sup>22</sup> Gloria determined that until his office receives more information from the Secretary of State about this investigation, he did not believe he had enough information to warrant revision of his original responses.



### III. HOW ELECTION ADMINISTRATORS DETECT AND PREVENT FRAUD

How would local election officials actually know if improper voting were taking place? Practices vary, but all but two interviewees reported to us that they rely on certain common safeguards against fraud to help detect and deter fraud.<sup>23</sup> Often these measures detect misconduct as well as prevent it. For example, election administrators reported that:

- They operate hotlines, or have a process for members of the public to challenge the eligibility of voters, or otherwise have a mechanism for poll workers or other citizens to report concerns of noncitizens voting.
- Some are notified when persons registered decline to serve on juries because they are noncitizens.
- Some register persons at naturalization ceremonies and then run a check to see if the newly-naturalized citizens are already registered.<sup>24</sup>
- A few have to do research to prepare documentations for United States Citizenship and Immigration Services (USCIS) or an individual certifying that a person seeking naturalization has not registered or voted before.

While no administrator reported that noncitizen voting was common, four of the 44 administrators raised concerns that the safeguards described were insufficient for preventing or identifying the registration of ineligible people. One expressed that the tools he had likely understated how many noncitizens were on the rolls. But many also noted that while noncitizens might be registered, it is often accidental, and ineligible people who end up on the rolls likely do not vote.

How is it possible for a noncitizen to register or vote by mistake? A noncitizen might get on the rolls when lawfully applying for a driver's license. This may happen as a result of an applicant not understanding the forms they are completing, or, as one official noted, because applicants presume that a DMV employee would not ask them to register if the applicant were not entitled to do so. But all who raised this particular issue noted that often it was the result of a mistake, not the intention to influence an election outcome. Lynn Ledford, Voter Registration and Elections Director in Gwinnett County, Georgia, articulated a sentiment shared by others:

"Sometimes a voter won't understand that they're completing a voter registration application," she said. "They will come and self-report and explain their accident. Then we give them a confirmation in writing that they have been removed and take them off the rolls."

One election administrator noted that a noncitizen may get registered because someone else, for example a person paid to sign up people to register to vote, misinformed the noncitizen as to the rules. While a crime may have been committed in this kind of circumstance, the noncitizen did not intend to improperly influence an election outcome.

There are numerous deterrents for fraudulent participation in elections, including:

- **Severe Penalties:** Federal law, and the law of every state in the country, imposes penalties for fraudulent voting.<sup>25</sup> For example, under federal law, a noncitizen who votes illegally can receive a prison term of up to five years if citizenship status was intentionally misrepresented, and fined up to \$250,000.<sup>26</sup> There are also immigration-related consequences: an ineligible noncitizen can be deported for casting a single vote. In fact, being registered to vote can be the basis for denying citizenship.<sup>27</sup>
- **High Risk of Detection:** Because there are records of who votes, detection is very easy. Voting records can be and are reviewed or compared to lists of ineligible voters to identify anyone ineligible by election administrators,<sup>28</sup> political parties,<sup>29</sup> and activists.<sup>30</sup> As noted by Tammy Patrick, Fellow at the Bipartisan Policy Center and former Federal Compliance Officer at the Maricopa County Elections Department in Arizona: “Voter apathy is an issue for citizens in this country. To think that someone who is here trying to stay under the radar would put their name on an official list and get out to vote in elections and expose themselves, with so much at risk, doesn’t make sense.” Detection threats do not just come from people interested in elections. USCIS can require naturalization applicants to produce proof that they have never registered or voted, including a “voting record from the relevant board of elections commission.”<sup>31</sup> Indeed, several election administrators we interviewed reported being called upon to produce this documentation for noncitizens going through the naturalization process.
- **Low Reward:** A noncitizen who votes illegally will add one vote to the mix. Given the facts that there is a record of the vote, and the noncitizen would have had to provide a signature at some point, adding a single illegal vote to the mix is a very inefficient and illogical way to steal an election.<sup>32</sup>

Some officials noted that there are reasons apart from election fraud that account for the claims of improper voting. In some cases, claims of illegal voting are motivated by political operatives seeking advantage in a heated contest. In another case, an administrator noted that an ex-husband seeking to harass his ex-wife and her boyfriend made an allegation of electoral wrong-doing. In some cases, what appears to be evidence of illegal voting is actually an improper attempt by an eligible citizen to get out of jury service. Several interviewees described how eligible Americans sometimes check a box on a jury service form claiming not to be citizens because they do not want to serve on the jury. “One way for people to get out of jury duty is they can say they’re a noncitizen and fill out a card saying they’re not a citizen,” explained Jacquelyn Callanen, Elections Administrator in Bexar County, Texas. Other times, noted one administrator, a citizen will forget to check the “citizen” box when filling out a driver’s license form and that will trigger a process which could end in a citizen’s registration being canceled, and also artificially inflate the number of alleged noncitizens who are on the registration rolls.

#### **IV. OVERBLOWN AND EXAGGERATED CLAIMS OF FRAUD UNDERMINE ELECTION ADMINISTRATION**

False claims of voter fraud undermine the very processes they claim to want to protect. In response to the president's claims, Vermont Secretary of State Jim Condos explained that "unsubstantiated voter fraud claims undermine our democracy and disparage the hundreds of thousands of hard-working election officials across our great nation."<sup>33</sup> Secretaries of State from across the country joined in voicing concerns about the harm false claims do to the public's faith in democracy.<sup>34</sup>

Most election officials we spoke with for this report echoed these concerns. Several explained that these false allegations make the difficult job of running elections even more difficult, for example, by undermining the public's faith in their local officials' ability to run an election, by making eligible voters reluctant to register for fear of committing a crime, and by making it difficult to retain employees that, come election season, are working long hours for weeks at a time with no days off, all while hearing allegations that they are not doing their jobs effectively.

## Conclusion

Studies have consistently shown that our elections are not infected by widespread fraud, and some types of fraud, like in-person impersonation and noncitizen voting, have been found time and again to be very rare. This survey finds that election administrators have reached the same conclusion as academics and researchers based on year-round experiences administering elections. In particular, it finds that voting by noncitizens is incredibly rare.

While voting by ineligible people is rare, voter roll errors do occur. These errors include the registration of ineligible people, and the non-registration of eligible people. Inaccurate rolls cause confusion, expense, and disenfranchisement (a problem identified by Trump, but one that is distinct from illegal voting). They also create security risks because they are more vulnerable than clean rolls to bad actors trying to exploit out-of-date entries. Most relevant to this study, inaccurate voter rolls provide fodder for persons who claim there is widespread fraud in our election systems.

Common-sense steps could safeguard integrity while assuring that all eligible citizens can vote. Automatic voter registration, for example, would clean up voter rolls.<sup>35</sup> In addition, other steps include securing the aging voting machines that are beginning to malfunction across the country.<sup>36</sup>

The country can and should take steps to improve the ways we administer elections, but those decisions should be based on facts and evidence as to what kinds of problems are actually plaguing our elections.



## Endnotes

- 1 Donald Trump, Twitter post, November 27, 2016, 3:30 p.m., <http://twitter.com/realDonaldTrump>.
- 2 Donald Trump, Twitter post, November 27, 2016, 7:31 p.m., <http://twitter.com/realDonaldTrump>.
- 3 Donald Trump, Twitter post, January 25, 2017, 7:10 a.m., <http://twitter.com/realDonaldTrump>; Donald Trump, Twitter post, January 25, 2017, 7:13 a.m., <http://twitter.com/realDonaldTrump>.
- 4 Eli Stokols, "Trump brings up vote fraud again, this time in meeting with senators," *Politico*, February 10, 2017, <http://www.politico.com/story/2017/02/trump-voter-fraud-senators-meeting-234909>.
- 5 Danny Vinik, "Spicer makes misleading voter fraud claim to defend Trump's false voter fraud claim," *Politico*, January 24, 2017, <http://www.politico.com/blogs/donald-trump-administration/2017/01/spicer-trump-voter-fraud-claim-234121>.
- 6 Glenn Kessler, "Stephen Miller's bushels of Pinocchios for false voter-fraud claims," *Washington Post*, February 12, 2017, [https://www.washingtonpost.com/news/fact-checker/wp/2017/02/12/stephen-millers-bushels-of-pinocchios-for-false-voter-fraud-claims/?utm\\_term=.7f239e2266d8](https://www.washingtonpost.com/news/fact-checker/wp/2017/02/12/stephen-millers-bushels-of-pinocchios-for-false-voter-fraud-claims/?utm_term=.7f239e2266d8).
- 7 Callum Borchers, "Trump walks back false voter fraud claim in interview with Bill O'Reilly," *Washington Post*, February 5, 2017, [https://www.washingtonpost.com/news/the-fix/wp/2017/02/05/trump-walks-back-false-voter-fraud-claim-in-interview-with-bill-oreilly/?utm\\_term=.4436b4b1f7f1](https://www.washingtonpost.com/news/the-fix/wp/2017/02/05/trump-walks-back-false-voter-fraud-claim-in-interview-with-bill-oreilly/?utm_term=.4436b4b1f7f1).
- 8 "Read President Trump's Interview With TIME on Truth and Falsehoods," by Michael Scherer, *TIME*, March 23, 2017, <http://time.com/4710456/donald-trump-time-interview-truth-falsehood/>.
- 9 Elizabeth Landers, "Trump was going to investigate voter fraud. What happened?," *CNN*, April 21, 2017, <http://www.cnn.com/2017/04/21/politics/donald-trump-voter-fraud-mike-pence/>.
- 10 We did not receive data from two of the ten counties with the largest noncitizen populations, Kings County, New York and Queens County, New York. Despite persistent outreach over the course of three months, the New York City Board of Elections did not provide the necessary information prior to this report's publication.
- 11 All census data used in this analysis is based on the 2011-2015 American Community Survey 5 Year Estimates. The number of adult noncitizens in election jurisdictions is based on computations from the following American Community Survey table: *Sex by Age by Nativity and Citizenship Status*. (B05003). The adult noncitizen population was computed by summing values for all noncitizens, both male and female, over the age of 18. All computations of the percentage of adult noncitizens in election jurisdictions are relative to the total population. In the case of California and Virginia, election jurisdictions are counties or county equivalents. In New Hampshire, as a general matter, election jurisdictions are county subdivisions.
- 12 States include: Arizona, California, Florida, Georgia, Illinois, Maryland, Nevada, New York, Texas, Virginia and Washington. A list of specific counties consulted for this analysis is on file with the Brennan Center. One jurisdiction had a new administrator who was not in office during 2016, so we also interviewed a former administrator to ensure that our responses reflected relevant past and current experiences.
- 13 In California, there was overlap between the state specific set of jurisdictions and the national set of jurisdictions, given the large number of noncitizens that reside there. Among the 44 counties with the largest populations of noncitizens, 13 are located in California. For this reason, California counties account for a disproportionate share of the registered voters in this analysis. Further, in the case of Virginia, one Virginia County is included among the 44 counties that we identified as having the largest populations of noncitizens.
- 14 We identified "rural" election jurisdictions by consulting data for population density contained in the following table from the 2010 U.S. Decennial Census: *Population, Housing Units, Area, and Density: 2010. 2010 Census Summary File 1. (GCT-PH1)*. For each state, we identified rural jurisdictions by identifying those jurisdictions with (1) a low population density relative to other jurisdictions in the state, and (2) a comparatively high percentage of adult noncitizens relative to other jurisdictions in the state.

- 15 In California and Virginia, our outreach solicited responses and interviews in more than five jurisdictions. For this reason, our state specific analyses in California and Virginia include more than the baseline of five jurisdictions. New Hampshire meets our minimum baseline for the state specific set of election jurisdictions.
- 16 In California, where 23 million voters participated in the November elections, the Secretary of State received 948 election-related complaints in all of 2016. The Secretary of State determined that only 73 of those involved potential wrongdoing by a voter and were worthy of further investigation. Those 73 included 56 allegations of double voting, 16 allegations of fraudulent voter registration, and 1 incident of fraudulent voting. Laurel Rosenhall, *Valid voter fraud complaints in California? Dozens, not millions*, Calmatters, 2017, <https://calmatters.org/articles/valid-voter-fraud-complaints-in-california-dozens-not-millions/>. Nevada's Secretary of State compared lists of voters with persons who indicated to the DMV that they were not citizens and found that three noncitizens may have voted in 2016. State of Nevada Secretary of State, "Secretary Cegavske Releases Details Regarding Ongoing Elections Investigation," news release, April 19, 2017, <http://nvsos.gov/sos/Home/Components/News/News/2229/309?backlist=%2fsos>. In Virginia, a review of nearly all prosecutions for election-related offenses between 2005 and 2015 found 91 total convictions, 85 of which were limited to single incidents in two counties. Bill Bartel, "Virginia voter registration records have loopholes but no evidence of widespread fraud," *The Virginian-Pilot*, February 18, 2017, [http://pilotonline.com/news/government/local/virginia-voter-registration-records-have-loopholes-but-no-evidence-of/article\\_6ad3e1d5-3ef6-56ce-b0d9-7052bf3c3d36.html](http://pilotonline.com/news/government/local/virginia-voter-registration-records-have-loopholes-but-no-evidence-of/article_6ad3e1d5-3ef6-56ce-b0d9-7052bf3c3d36.html). In 2007, 2009, and 2011, New Hampshire's Attorney General published the results of post-election investigations into 352 voters that completed a sworn affidavit to prove their eligibility when registering to vote on Election Day. The investigations found that all of those voters were eligible. See New Hampshire Attorney General, *2010 General Election Voter Fraud Report/Investigation*, 2011, <http://sos.nh.gov/WorkArea/DownloadAsset.aspx?id=12499>; New Hampshire Attorney General, *2008 General Election Voter Fraud Report/Investigation*, 2009, <http://sos.nh.gov/WorkArea/DownloadAsset.aspx?id=12498>; New Hampshire Attorney General, *2006 General Election Voter Fraud Report/Investigation*, 2007, <http://sos.nh.gov/WorkArea/DownloadAsset.aspx?id=12497>. A News21 study of prosecutions by state attorneys general in five states – including Arizona, Georgia and Texas where we interviewed administrators – found just 38 successful prosecutions for any kind of election fraud between 2012 and 2016. Those cases included at least 13 cases that did not involve misconduct by a voter, and another 13 cases of double voting in Arizona. That study did not, however, include local prosecutions. Sami Edge and Sean Holstege, "Voter fraud is not a persistent problem," *News21*, August 20, 2016, <https://votingwars.news21.com/voter-fraud-is-not-a-persistent-problem/>. In sworn testimony, an official from the Texas Attorney General's office reported that the Attorney General had received 320 allegations of voter fraud between 2002 and 2012, three of which related to noncitizen voting and resulted in prosecutions. Transcript of Dep. of Major Forrest Mitchell at 193-194, *Veasey v. Perry*, 71 F. Supp. 3d 627 (S.D. Tex. 2014) (No. 721-14). Less comprehensive studies are available in Maryland and New York. Brian E. Frosh, Attorney General of Maryland, wrote to Reps. Elijah E. Cummings, Robert A. Brady and James E. Clyburn, noting that the Maryland State Board of Elections uncovered just two instances of voter fraud after the 2012 general election. Brian E. Frosh, Attorney General of Maryland, to Reps. Elijah E. Cummings, Robert A. Brady and James E. Clyburn, March 6, 2017, [http://www.marylandattorneygeneral.gov/News%20Documents/Voter\\_Fraud.pdf](http://www.marylandattorneygeneral.gov/News%20Documents/Voter_Fraud.pdf). Eric T. Schneiderman, Attorney General of New York, wrote to Reps. Elijah E. Cummings, Robert A. Brady and James E. Clyburn, reporting that his office received just two unsubstantiated allegations of voter fraud in 2016. Eric T. Schneiderman, Attorney General of New York, to Reps. Elijah E. Cummings, Robert A. Brady and James E. Clyburn, Feb. 22, 2017, [https://www.scribd.com/document/340046673/2017-02-22-Ltr-to-Cummings-Brady-Clyburn-Re-Voter-Fraud#from\\_embed](https://www.scribd.com/document/340046673/2017-02-22-Ltr-to-Cummings-Brady-Clyburn-Re-Voter-Fraud#from_embed). Finally, in 2012, News21 undertook a nationwide investigation in which they requested records of prosecutions for voter fraud in every state since 2000. News21 did not receive responses or records from every part of every state, but across the 12 states we spoke with, over the course of a decade, that investigation uncovered 28 prosecutions for voting by a noncitizen, at least 10 of which were dismissed by the time of News21's investigation. News21, *Election Fraud in America*, August 12, 2012, <http://votingrights.news21.com/interactive/election-fraud-database/>.
- 17 State of Ohio Secretary of State, "Husted: Investigation Uncovers Non-Citizens Who Registered to Vote & Illegally Cast Ballots," news release, February 27, 2017, [https://www.sos.state.oh.us/sos/mediaCenter/2017/2017-02-27.aspx?utm\\_source=Press+Release+February+27&utm\\_campaign=I+Want+to+Vote+survey+launch+PR&utm\\_medium=em](https://www.sos.state.oh.us/sos/mediaCenter/2017/2017-02-27.aspx?utm_source=Press+Release+February+27&utm_campaign=I+Want+to+Vote+survey+launch+PR&utm_medium=em).
- 18 State of Nevada Secretary of State, "Secretary Cegavske Releases Details Regarding Ongoing Elections Investigation," news release, April 19, 2017, <http://nvsos.gov/sos/Home/Components/News/News/2229/309?backlist=%2fsos>.
- 19 North Carolina State Board of Elections, *Post-Election Audit Report*, 2017, <https://s3.amazonaws.com/dl.ncsbe.gov/>



sboe/Post-Election%20Audit%20Report\_2016%20General%20Election/Post-Election\_Audit\_Report.pdf. For the partisan makeup of the board, see North Carolina State Board of Elections, “About Us,” accessed April 26, 2017, <https://www.ncsbe.gov/about-us>.

- 20 There is cause to subject these allegations to rigorous examination. Ohio and Nevada identified alleged noncitizens by comparing lists of registered voters to individuals who had, at some time in the past, indicated they were noncitizens when visiting the state driver licensing office. Obviously, a person's citizenship status can change in between license renewals. North Carolina identified its preliminary list of alleged noncitizens by comparing drivers' license data, voting records, and the U.S. Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database and concluded that that drivers' license data and SAVE data were unreliable for determining citizenship status. North Carolina later sent letters to targeted persons to obtain more information, but at this time it remains to be seen how much this later effort remedied the original infirmity. See North Carolina State Board of Elections, *Post-Election Audit Report*, Appendix 1, 2017, [https://s3.amazonaws.com/dl.ncsbe.gov/sboe/Post-Election%20Audit%20Report\\_2016%20General%20Election/Post-Election\\_Audit\\_Report.pdf](https://s3.amazonaws.com/dl.ncsbe.gov/sboe/Post-Election%20Audit%20Report_2016%20General%20Election/Post-Election_Audit_Report.pdf).
- 21 5,607,641 people voted in Ohio in November 2016. State of Ohio Secretary of State, “Voter Turnout in General Elections,” <https://www.sos.state.oh.us/sos/elections/Research/electResultsMain/HistoricalElectionComparisons/Voter%20Turnout%20in%20General%20Elections.aspx>. 1,125,429 voted in Nevada. State of Nevada Secretary of State, “Voter Turnout Statistics,” <http://silverstateelection.com/vote-turnout/>. 4,769,640 voted in North Carolina. North Carolina State Board of Elections, “General Election Voter Turnout,” <https://www.ncsbe.gov/voter-turnout>.
- 22 See State of Nevada Secretary of State, “Secretary Cegavske Releases Details Regarding Ongoing Elections Investigation,” news release, April 19, 2017, <http://nvsos.gov/sos/Home/Components/News/News/2229/309?backlist=%2fsos> (alleging that three noncitizens voted in Clark County).
- 23 For example, all jurisdictions (or the state elections office) compare identifying information in the registration application, specifically a driver license number or the last four digits of a social security card, against motor vehicles databases or the social security database, to ensure that a person with those identifying numbers exists. This practice is called for by federal law. See 52 U.S.C. § 21083(a)(5). There are other requirements, for example, requiring persons to sign under penalty of perjury that they are who they say they are. 52 U.S.C. § 20508(b)(2) (C).
- 24 Susan Bucher, Supervisor of Elections in Palm Beach County, Florida noted that her office goes to naturalization ceremonies every week to register new citizens. Supervisor Bucher explained that, “after doing that we go back to check and see if they're already registered to vote so we don't have duplicate records and we've never found anyone who has a duplicate record. We've registered more than around 55,000 and not a single one had registered prior.”
- 25 See, e.g., 18 U.S.C. § 611 (making it unlawful for any alien to vote for candidates for federal offices and imposing penalties of up to one year in prison); Fla. Stat. § 104.16 (“Any elector who knowingly votes or attempts to vote a fraudulent ballot, or any person who knowingly solicits, or attempts, to vote a fraudulent ballot, is guilty of a felony of the third degree”). Several local jurisdictions, including the city of Chicago and seven Maryland municipalities, allow noncitizens to vote in particular elections. See 105 Ill. Comp. Stat. 5/34-2.1(d)(ii) (2017); Arelis R. Hernández, “Hyattsville will allow non-U.S. citizens to vote in city elections,” *Washington Post*, December 7, 2016, [https://www.washingtonpost.com/local/md-politics/hyattsville-will-allow-non-us-citizens-to-vote-in-city-elections/2016/12/07/63bc87ae-bc8c-11e6-ac85-094a21c44abc\\_story.html?utm\\_term=.aad9ad43944d](https://www.washingtonpost.com/local/md-politics/hyattsville-will-allow-non-us-citizens-to-vote-in-city-elections/2016/12/07/63bc87ae-bc8c-11e6-ac85-094a21c44abc_story.html?utm_term=.aad9ad43944d).
- 26 A violation of 18 U.S.C. § 1015(f) is a felony punishable by up to 5 years in prison and a \$250,000 fine. See 18 U.S.C. § 3559(a)(5); 18 U.S.C. § 3571(b)(3). States also have their own harsh penalties. In a recent high-profile example, a noncitizen in Texas who voted was sentenced to eight years in prison. Claire Z. Cardona, “Grand Prairie woman illegally voted for the man responsible for prosecuting her,” *Dallas News*, February 10, 2017, <http://www.dallasnews.com/news/tarrant-county/2017/02/08/grand-prairie-woman-found-guilty-illegal-voting>. This was considerably longer than the “affluenza” teen who killed 4 people while driving drunk. Sean Lester, “While North Texas ‘affluenza’ teen went free, similar East Texas case led to 20 years in prison,” *Dallas News*, February 15, 2016, <http://www.dallasnews.com/news/crime/2016/02/15/while-north-texas-affluenza-teen-went-free-similar-east-texas-case-led-to-20-years-in-prison>.
- 27 U.S. Citizenship and Immigration Services, *Policy Manual*, Vol. 12, Part F, Chapter 5 (Washington, DC, 2017),

<https://www.uscis.gov/policymanual/HTML/PolicyManual-Volume12-PartF-Chapter5.html>.

- 28 See, e.g., State of Ohio Secretary of State, “Husted: Investigation Uncovers Non-Citizens Who Registered to Vote & Illegally Cast Ballots,” news release, February 27, 2017, [https://www.sos.state.oh.us/sos/mediaCenter/2017/2017-02-27.aspx?utm\\_source=Press+Release+February+27&utm\\_campaign=I+Want+to+Vote+survey+launch+PR&utm\\_medium=em](https://www.sos.state.oh.us/sos/mediaCenter/2017/2017-02-27.aspx?utm_source=Press+Release+February+27&utm_campaign=I+Want+to+Vote+survey+launch+PR&utm_medium=em). Officials in Florida, Colorado, Michigan, and Iowa have conducted similar investigations. See Florida Department of State, “Secretary of State Ken Detzner Files Lawsuit Against U.S. Department of Homeland Security, Seeks Access to Database of Non-Citizens to Ensure Accuracy of Florida Voter Rolls,” press release, June 11, 2012, <http://dos.myflorida.com/communications/press-releases/2012/secretary-of-state-ken-detzner-files-lawsuit-against-us-department-of-homeland-security-seeks-access-to-database-of-non-citizens-to-ensure-accuracy-of-florida-voter-rolls/>; State of Colorado Department of State, “1 in 8 voters who received letters trending as non-citizens,” news release, August 30, 2012, <https://www.sos.state.co.us/pubs/newsRoom/pressReleases/2012/PR20120830Trending.html>; State of Michigan Department of State, “Johnson asks AG to investigate voting by non-U.S. citizens,” news release, December 5, 2013, <http://www.michigan.gov/sos/0,4670,7-127--317582--rss,00.html>; State of Iowa Secretary of State, *DCI Voter Fraud Investigations Report*, 2014, <http://publications.iowa.gov/16874/1/DCI%20Voter%20Fraud%20Report%205-8-14.pdf>.
- 29 Political parties may not have access to lists of noncitizens, but review lists of voters to identify those ineligible for other reasons, particularly when the margin of victory in a contest is small. See, e.g., Colin Campbell, “McCrory campaign expands ballot complaints to 52 counties,” *News & Observer*, November 17, 2016, <http://www.newsobserver.com/news/politics-government/election/article115492333.html>.
- 30 See, e.g., Public Interest Legal Foundation, *Alien Invasion in Virginia*, 2016, [https://publicinterestlegal.org/files/Report\\_Alien-Invasion-in-Virginia.pdf](https://publicinterestlegal.org/files/Report_Alien-Invasion-in-Virginia.pdf); Public Interest Legal Foundation, *Aliens & Felons*, 2016, <https://publicinterestlegal.org/files/Philadelphia-Litigation-Report.pdf>. Despite using unreliable methodology, these reports, authored by an organization that promotes the myth of widespread voter fraud, identified few noncitizens on the rolls.
- 31 U.S. Citizenship and Immigration Services, *Policy Manual*, Vol. 12, Part F, Chapter 5 (Washington, DC, 2017), <https://www.uscis.gov/policymanual/HTML/PolicyManual-Volume12-PartF-Chapter5.html>.
- 32 See, e.g., Justin Levitt, *The Truth About Voter Fraud*, Brennan Center for Justice, 2007, 7, <http://www.brennancenter.org/sites/default/files/legacy/The%20Truth%20About%20Voter%20Fraud.pdf>; Lorraine C. Minnite, *Myth of Voter Fraud* (New York: Cornell University Press, 2010), 5, 77-85.
- 33 State of Vermont Office of the Secretary of State, “Secretary of State Jim Condos’ Statement on Voter Fraud Claims by President Trump,” news release, January 25, 2017, <https://www.sec.state.vt.us/media/824085/voter-fraud-claims-response-press-release.pdf>.
- 34 Brennan Center Staff, “In Their Own Words: Officials Refuting False Claims of Voter Fraud,” *Brennan Center for Justice*, accessed April 26, 2017, <https://www.brennancenter.org/quotes-on-voter-fraud>; see also, National Association of Secretaries of State, “Statement from National Association of Secretaries of State on Election Integrity,” news release, October 18, 2016, <http://www.nass.org/index.php/news-releases-and-statements/release-nass-statement-election-integrity-oct16>.
- 35 See Brennan Center for Justice, *Automatic and Permanent Voter Registration: How it Works*, 2015, [https://www.brennancenter.org/sites/default/files/publications/Automatic\\_Permanent\\_Voter\\_Registration\\_How\\_It\\_Works.pdf](https://www.brennancenter.org/sites/default/files/publications/Automatic_Permanent_Voter_Registration_How_It_Works.pdf). Automatic voter registration automatically registers to vote any eligible voter that provided all of the information necessary to register to vote to another government agency, unless a person declines to be registered.
- 36 See Lawrence Norden and Christopher Famighetti, *America’s Voting Machines at Risk*, Brennan Center for Justice, 2015, [https://www.brennancenter.org/sites/default/files/publications/Americas\\_Voting\\_Machines\\_At\\_Risk.pdf](https://www.brennancenter.org/sites/default/files/publications/Americas_Voting_Machines_At_Risk.pdf).

## Appendix: Jurisdictions Interviewed

Accomack County, Virginia

Bexar County, Texas

Cook County, Illinois

City of Alexandria, Virginia

City of Concord, New Hampshire

City of Dover, New Hampshire

City of Fairfax, Virginia

City of Manassas, Virginia

City of Manassas Park, Virginia

City of Somersworth, New Hampshire

Clark County, Nevada

Colusa County, California

Contra Costa County, California

Dallas County, Texas

El Paso County, Texas

Fairfax County, Virginia

Fresno County, California

Gwinnett County, Georgia

Harris County, Texas

Imperial County, California

Kern County, California

King County, Washington

Los Angeles, California

Loudoun County, Virginia

Maricopa County, Arizona

Miami-Dade County, Florida

Montgomery County, Virginia

Orange County, California

Orange County, Florida

Palm Beach County, Florida

Prince George's County, Maryland

Riverside County, California

Sacramento County, California

San Bernardino County, California

San Diego County, California

San Mateo County, California

Santa Clara County, California

Town of Hanover, New Hampshire

Town of Hebron, New Hampshire

Town of Stewartstown, New Hampshire

Travis County, Texas

Westchester County, New York



## STAY CONNECTED TO THE BRENNAN CENTER

Visit our website at [www.brennancenter.org](http://www.brennancenter.org).

Sign up for our electronic newsletters at [www.brennancenter.org/signup](http://www.brennancenter.org/signup).

**Latest News** | Up-to-the-minute info on our work, publications, events, and more.

**Justice Update** | Snapshot of our justice work and latest developments in the field.

**Money in Politics** | Latest state and national developments and original analysis.

**Redistricting Round-Up** | Analysis of current legal battles and legislative efforts.

**Fair Courts** | Comprehensive news roundup spotlighting judges and the courts.

**Liberty & National Security** | Updates on privacy, government oversight, and accountability.

**Twitter** | [www.twitter.com/BrennanCenter](http://www.twitter.com/BrennanCenter)

**Facebook** | [www.facebook.com/BrennanCenter](http://www.facebook.com/BrennanCenter)

**Instagram** | [www.instagram.com/brennancenter](http://www.instagram.com/brennancenter)

## NEW AND FORTHCOMING BRENNAN CENTER PUBLICATIONS

*Election Integrity: A Pro-Voter Agenda*  
Myrna Pérez

*The Justice Department's Voter Fraud Scandal: Lessons*  
Adam Gitlin and Wendy R. Weiser

*Florida: An Outlier in Denying Voting Rights*  
Erika Wood

*Democracy & Justice: Collected Writings, vol. X*  
Brennan Center for Justice

*The Fight to Vote*  
Michael Waldman

*Crime Trends: 1990-2016*  
Matthew Friedman, Ames Grawert, and James Cullen

*Countering Violent Extremism*  
Faiza Patel and Meghan Koushik

*Judicial Selection for the 21st Century*  
John Kowal

For more information, please visit [www.brennancenter.org](http://www.brennancenter.org)

BRENNAN  
CENTER  
FOR JUSTICE  
TWENTY  
YEARS

*at New York University School of Law*

120 Broadway  
Suite 1750  
New York, NY 10271  
646-292-8310  
[www.brennancenter.org](http://www.brennancenter.org)

# Noncitizen voting is extremely rare, yet Republicans are making it a major election concern

Politics Sep 2, 2024 11:37 AM EDT

Only U.S. citizens are eligible to vote in this fall's election for president and other top offices. While that is nothing new, the potential for noncitizens to register or vote has been receiving a lot of attention lately.

Citing an influx of immigrants in recent years at the U.S.-Mexico border, Republicans have raised concerns about the possibility that noncitizens will be voting and they have taken steps in numerous states to address that prospect, even though cases of noncitizens actually voting are rare.

GOP officials have undertaken reviews of voter rolls, issued executive orders and placed constitutional amendments on state ballots as part of an emphasis on thwarting noncitizen voting. Some Democrats contend the measures could create hurdles for legal voters, are unnecessary and lead people to believe the problem of noncitizens voting is bigger than it really is.

## What does the law say?

A 1996 U.S. law makes it illegal for noncitizens to vote in elections for president or members of Congress. Violators can be fined and imprisoned for up to a year. They can also be deported.

When people register to vote, they confirm under penalty of perjury that they are U.S. citizens. Federal law requires states to regularly maintain their voter rolls and remove anyone who is ineligible, a process that could identify immigrants living in the country illegally. No state constitutions explicitly allow noncitizens to vote, and many states have laws that prohibit noncitizens from voting for state offices such as governor or attorney general. But some municipalities in California, Maryland and Vermont, as well as the District of Columbia, do allow voting by noncitizens in some local elections such as for school board and city council.

## What does the data say?

Voting by noncitizens is rare. Yet Republican officials have highlighted voter registration reviews that turned up potential noncitizens. Texas Gov. Greg Abbott, a Republican, said this past week that more than 6,500 potential noncitizens have been removed from Texas voter rolls since 2021, including 1,930 with "a voter history" who have been referred for investigation by the attorney general's office. Texas has almost 18 million registered voters.

## WATCH:How the politically diverse Latino community can help moderate U.S. polarization

Ohio Secretary of State Frank LaRose, a Republican, said in August that he referred for potential prosecution 138 apparent noncitizens found to have voted in a recent election and 459 more who registered but did not vote. Those figures were higher than reviews from previous years but a small fraction of the more than 8 million registered voters in Ohio.

Alabama Secretary of State Wes Allen, a Republican, recently announced that 3,251 people previously identified as noncitizens by the federal government are being switched to inactive status on the state's voter registration rolls. They will be required to provide proof of citizenship and fill out a form to vote in November. Alabama has more than 3 million registered voters.

In Georgia, Republican Secretary of State Brad Raffensperger found that 1,634 potential noncitizens tried to register to vote between 1997 and 2022, though election officials flagged them and none was registered. Georgia registered millions of other voters during that time.

Some election administration experts have said the voter roll reviews show that current tools to flag noncitizen voters are working.

### **What do the courts say?**

Arizona provides a case study for the long-running attempts by Republicans to prohibit noncitizen voting.

Under a 2004 voter-approved initiative, Arizona required a driver's license, birth certificate, passport or other similar document to approve a federal voter registration application. But the U.S. Supreme Court ruled in 2013 that Arizona cannot require documentary proof of citizenship for people to vote in federal elections.

The state responded by creating two classes of voters. For state and local elections, voters must provide proof of citizenship when they register or have it on file with the state. But because that cannot be required in presidential and congressional elections, tens of thousands of voters who have not provided proof of citizenship are registered only for federal elections.

An August order by a divided U.S. Supreme Court will allow voter registration forms submitted without "documentary proof of citizenship" to be rejected by Arizona counties while litigation over the law continues. People will be able to register to vote in presidential and congressional elections using a different federal form that requires people to swear they are citizens under penalty of perjury, without requiring proof.

What's on the ballot?

Republican-led legislatures in eight states have proposed constitutional amendments on their November ballots declaring that only citizens can vote.

Proposals in Iowa, Missouri, North Carolina, Oklahoma, South Carolina and Wisconsin would replace existing constitutional provisions stating that "every" citizen or "all" citizens can vote with new wording saying "only" citizens can vote. Supporters contend the current wording does not necessarily bar noncitizens from voting.

In Idaho and Kentucky, the proposed amendments would explicitly state: "No person who is not a citizen of the United States" can vote. Similar wording won approval from Louisiana voters two years ago.

Voters in North Dakota, Colorado, Alabama, Florida and Ohio passed amendments between 2018 and 2022 restricting voting to "only" citizens.

What else are states doing?

Although noncitizen voting already is prohibited in the state constitution, Republican Gov. Jeff Landry of Louisiana is continuing to draw attention to the issue. He recently signed an executive order requiring state agencies that provide voter registration forms to include a written disclaimer that noncitizens are prohibited from voting.

In Georgia, Raffensperger last week required every polling place to post a sign in English and Spanish warning noncitizens that it is illegal to vote.

Republican Attorney General Ken Paxton of Texas, citing "significant growth of the noncitizen population" in the state, set up a special email account Wednesday to report suspected violations of election laws.

In Wisconsin, Republicans have filed a pair of similar lawsuits in recent weeks that challenge the state's process for verifying whether a



registered voter is a citizen. The lawsuits seek court orders requiring the elections commission to perform checks to ensure there are no registered voters who are noncitizens.

North Carolina Republicans have sued the state election board, alleging it is not enforcing a new law aimed at removing people from voter rolls who seek jury duty exclusions because they are not citizens.

Tennessee's top election office sent letters in June asking for proof of citizenship from more than 14,000 registered voters, though those who failed to respond will not be barred from voting. The list was based on data from the state Department of Safety and Homeland Security, which has information about whether residents were U.S. citizens when they first interacted with that department.

### **What has Congress done?**

Republicans in Congress are pushing a bill, known as the Safeguard American Voter Eligibility Act, that would require proof of citizenship to register to vote. During a news conference about the legislation this year, House Speaker Mike Johnson, R-La., did not provide specific examples of noncitizens voting but insisted it is a concern.

"We all know, intuitively, that a lot of illegals are voting in federal elections," he said, "but it's not been something that is easily provable." The legislation passed the Republican-led House in July largely along partisan lines but has not come to a vote in the Democratic-led Senate. The Biden administration said it is strongly opposed and that laws against noncitizen voting are working.

"This bill would do nothing to safeguard our elections, but it would make it much harder for all eligible Americans to register to vote and increase the risk that eligible voters are purged from voter rolls," the White House said in a statement.

---  
*Associated Press writers Scott Bauer in Madison, Wisconsin, and Ali Swenson in New York contributed to this report.*

By — David A. Lieb, Associated Press

1

2

Enjoy unlimited access for 99¢ **SAVE NOW**



**Federal judge rules on Cornel West presidential campaign's access to NC ballot**



**Under the Dome: Voting has started for the 2024 primary election**



**NC Republicans want citizens-only voting amendment. Would it change anything?**



**Democratic NC lawmaker who lost files protests alleging voting irregularities**



**Republicans in Congress seek information on NC board's decision to block third parties**

POLITICS & GOVERNMENT

## 'Categorically false.' NC elections board rejects noncitizen voting argument in GOP lawsuit

BY KYLE INGRAM

AUGUST 23, 2024 12:19 PM



North Carolina Republican Party chairman Michael Whatley greets former President Donald Trump as he arrives for his address to the North Carolina Republican Party Convention at the Koury Convention Center on Saturday, June 10, 2023 in Greensboro, N.C. ROBERT WILLETT  
[rwillett@newsobserver.com](mailto:rwillett@newsobserver.com)

X

RALEIGH

The North Carolina State Board of Elections strongly rejected allegations in a [lawsuit](#) filed by state and national Republicans about the board's process for removing noncitizens from the voting rolls.

The lawsuit, filed Thursday by the NC GOP and the Republican National Committee, accuses the board of failing to comply with a new state law requiring the use of jury questionnaire responses in removing noncitizens from the rolls. The responses show who claimed to be noncitizens to be excused from jury duty.

#### TOP VIDEOS

AD

Continue watching

**N&O reporter Richard Stradling discusses long wait time...**  
after the ad

Pat Gannon, a spokesperson for the board, said this accusation was “categorically false” and that the agency has already worked with superior courts across the state to implement the new law. The elections board asked the NC GOP and the RNC to rescind their press releases on the lawsuit “as they will undermine voter confidence on an entirely false premise.”

In the RNC's press release Thursday afternoon, Chair Michael Whatley said “Only Americans should vote in American elections. If someone claims non-citizenship, they must be taken off the voter rolls – that's the law. The NCSBE has chosen to blatantly ignore the law, undermine basic election safeguards, and neglect a fundamental principle of our election integrity.”

Gannon said the board has already identified nine individuals who appear on the state's voter rolls and were excused from jury duty for claiming to be noncitizens. If the board confirms they are not citizens, they will be sent letters asking them to cancel their voter registration.

X

The board is prohibited by federal law from outright removing the registrants from the rolls if the process cannot be completed within 90 days of the election — a deadline which already passed earlier this month.

But if they are found to not be citizens, they could face prosecution. It is already a federal crime for noncitizens to vote, and state law requires residents to be citizens to register to vote. North Carolina voters also have to present a photo ID to vote.

In their lawsuit, Republicans note that the jury selection law went into effect on July 1. Matt Mercer, communications director for the NC GOP, said that if the board had begun implementing the law earlier, the 90-day deadline would not have been an issue.

Republican legislative leaders were briefed on the board's plans to comply with the new law as early as last November, Gannon said. All of the state's election officials, both Republican and Democrat, were also informed of this process at a statewide elections conference at the beginning of the month.

North Carolina Republicans passed the law in question, Senate Bill 747, last year, overriding Democratic Gov. Roy Cooper's veto to do so. The provision dealing with removing noncitizens from the voting rolls is just one of many sweeping changes to election law included in the legislation.

The law has been challenged in federal court as part of several lawsuits, one of which led to a judge [blocking a portion of the law](#) that dealt with same-day registration.

Noncitizen voting has become a major talking point for Republicans nationally and in North Carolina, though the actual crime is rare. A 2016 national [study conducted by the Brennan Center](#) found that in 42 jurisdictions accounting for 23.5 million votes, there were only 30 estimated incidents of suspected noncitizen voting.

X

Earlier this year, state Republicans [passed a proposed constitutional amendment](#) that, if approved by voters, would explicitly state that only citizens can vote in North Carolina — although this is already the law.

## Under the Dome

Get the latest news and insider information from the world of politics and government in North Carolina.

**SIGN UP**

By submitting, I agree to the [Privacy Policy](#) and [Terms of Service](#).

### UNDER THE DOME

Get the latest news about North Carolina politics from The News & Observer's award-winning team. Get the free digest sent to your inbox by signing up [here](#).

#### RELATED STORIES FROM RALEIGH NEWS & OBSERVER

##### ELECTIONS

Fact check: Vance claims without evidence Harris wants people in US illegally to vote

AUGUST 21, 2024 7:34 PM

X

# Republicans Seize on False Theories About Immigrant Voting

Activists, party lawyers and state officials are mobilizing behind a crackdown on a supposed scourge of noncitizens' casting ballots. Voting rights advocates say the effort is spreading misinformation.

▶ Listen to this article · 14:18 min [Learn more](#)



By Alexandra Berzon

Sept. 5, 2024


**Sign up for the On Politics newsletter.** Your guide to the 2024 elections.  
[Get it sent to your inbox.](#)

In late July, a group of Republican activists met on a Zoom call to discuss preparations for the November election. The topic was how to keep undocumented immigrants from voting in November, a problem they claim, inaccurately, to be a looming threat to a fair election.

One woman, a local party chair from Georgia, recommended scouring school enrollment figures to find neighborhoods with large numbers of migrants. Another, Darlene Hennessy, an activist from the Detroit area, recommended hanging up signs in “ethnic” neighborhoods warning people not to vote if they were not eligible. She also suggested searching voter rolls for certain types of surnames.

“I think it’s unfortunate, but sometimes the only way you can find out is to look for ethnic names,” Ms. Hennessy said, according to a recording of the call obtained by The New York Times.

“We don’t want to be doing anything illegal,” she added.

There is no indication that noncitizens are voting in large numbers. And yet the notion that they will flood the polls — and vote overwhelmingly for Democrats — is animating a sprawling network of Republicans who mobilized around former President Donald J. 

Trump's false claims of a rigged election in 2020 and are now preparing for the next one.

Activists like Ms. Hennessy, prominent lawyers, Republican lawmakers, right-wing influencers and other allies of Mr. Trump have ramped up pressure on local election officials to take steps that they say will keep noncitizens from tilting the election in Democrats' favor. They have pressed for voter roll purges, filed lawsuits, prepared for on-the-ground monitoring of polling places and spread misinformation online.

Republican elected officials have responded. In Texas, the state's Republican attorney general, Ken Paxton, recently announced an investigation into whether organizations were purposely registering noncitizens to vote. (He also authorized the state police to search the homes of activists who had been registering Latino voters as part of an investigation into allegations of voter fraud.) In Alabama, the secretary of state recently deactivated the registrations of more than 3,000 people, including some who are naturalized citizens, according to news reports, forcing them to update their records before they can vote.

Secretaries of state in Ohio and Montana are suing the Biden administration accusing officials of encouraging noncitizens to vote. In Congress, members of the House Freedom Caucus have pushed to include a bill focused on noncitizen voters in a spending package this fall.

This surge of activity is raising a range of concerns among voting rights advocates and lawyers. The Republican activists' discussions carried echoes of Jim Crow-era practices that kept Black and Latino voters from the polls. There is no indication that activists have taken action, but if they did target neighborhoods with signs that could violate laws that prohibit voter intimidation, the voting rights advocates said. And efforts to purge voter rolls of noncitizens, if not executed carefully, could add hurdles for citizens voting legally.

"This narrative that noncitizens are voting is really an attack on voters of color and particularly Latino voters and new Americans," said Hannah Fried, the executive director of All Voting is Local, a voting rights group.

But Ms. Fried and other voting rights advocates saw another risk: Several of the people raising the specter of noncitizens' voting also led the charge to overturn Mr. Trump's defeat in 2020. Their focus on this narrative now threatens to sow more distrust in the election system and could be used to justify election challenges should Mr. Trump lose again.

"Since 2020, we've seen a sustained effort to foment distrust in our election system and election results, and I think this is another effort to do more of that work," said Jessica



Marsden, a lawyer for Protect Democracy, a group that monitors threats against fair elections.

State audits and studies from groups across the political spectrum have repeatedly found that a relatively small number of noncitizens make it onto voter rolls, and a far smaller number cast ballots. A recent analysis published by the Cato Institute, the libertarian think tank, found that the number of votes cast by noncitizens discovered through state audits in 2016 ranged from three in Nevada, out of over a million votes cast, to 41 in North Carolina, where nearly five million votes were cast.

Republicans argue that even one illegal vote is too many and that the data is not capturing the scope of the potential problem given the millions of undocumented immigrants in the country. Their efforts, they say, will help restore eroding trust and do not impede legitimate voters from casting ballots.

Cleta Mitchell, whose Election Integrity Network organized the July conference call of activists, said she believed that the “vast numbers of illegals” in the country represented a “huge threat to the integrity of our elections.”

“I’m sure you would agree that every illegal vote cancels a legal, citizen’s vote — so that even one such vote is a problem for democracy,” she said in an email to The Times.

## An Old Theory Gains New Traction



Protesters in Nevada in November 2020. Bridget Bennett for The New York Times

The focus on noncitizen voting is somewhat new for the movement that grew out of Mr. Trump's defeat in 2020. Mr. Trump's backers claimed that election machines had been hacked, among other unfounded conspiracy theories. During the 2022 midterm elections, they homed in on the theory that scores of "mules" would illegally stuff ballots into drop boxes.

Now, the theories about noncitizens' voting have gained traction in a party already incensed by the surge of illegal immigration in recent years.

Federal law requires voters to swear that they are citizens, under penalty of perjury, in order to register to vote. But conservatives have long argued that sworn statements and other actions taken by states are not enough to keep noncitizens off the rolls.

Conservative groups like the Heritage Foundation and the Public Interest Legal Foundation have tracked alleged instances of noncitizen voting, some of which turned out to be wrong. Even small numbers can decide tight elections, they say, and bolster the case for laws that require voters to show not just state identification but also proof of citizenship — such as a birth certificate or a passport — to register and vote.

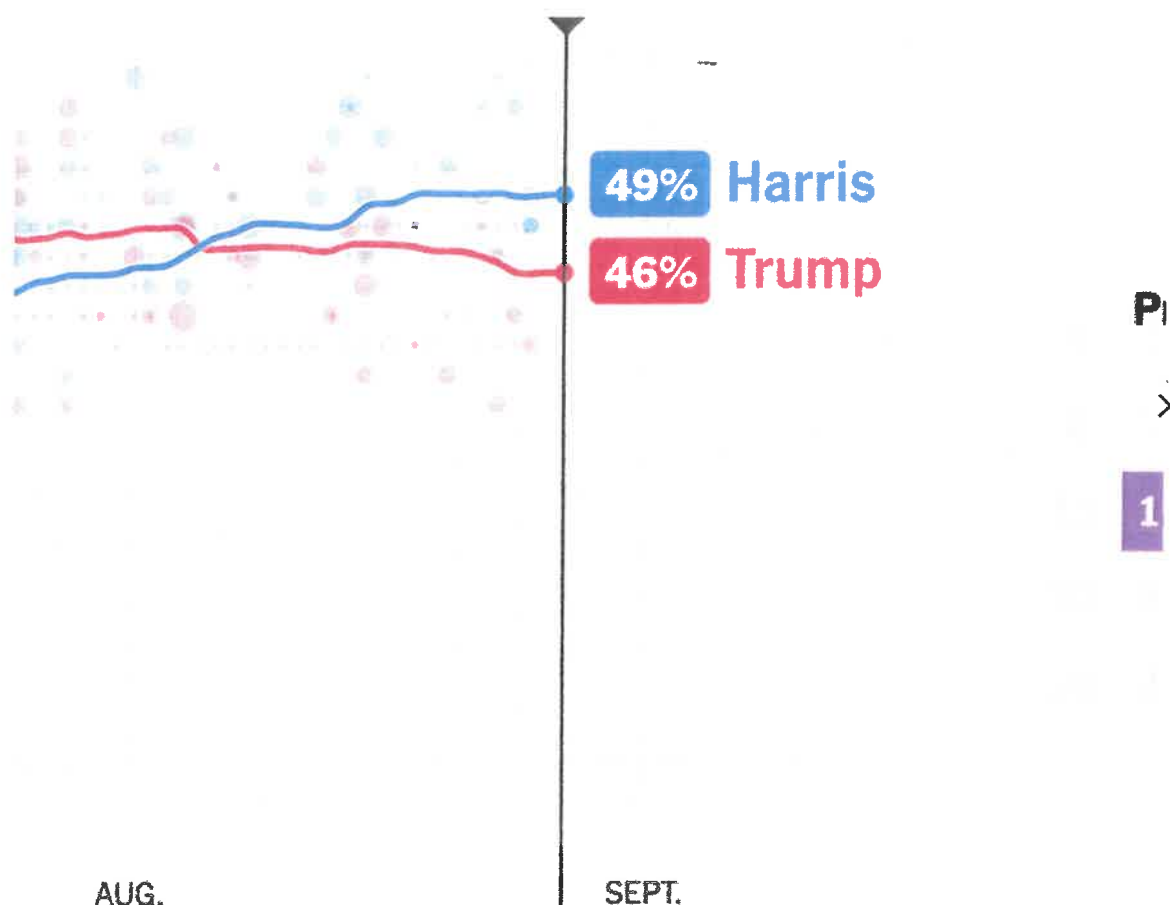
Democrats typically have held that such laws put too much of a burden on voters and are unnecessary.

2024

## Keep Up With the 2024 Election

The presidential election is **56 days away**. Here's our guide to the run-up to Election Day.





**Tracking the Polls.** The state of the race, according to the latest polling data.

**Election Calendar** deadlines.

**On Politics Newsletter.** Get the latest news and analysis on the 2024 election sent to your inbox. [Sign up here.](#)

One researcher, Aaron Reichlin-Melnick, a senior fellow at the American Immigration Council, an immigrant rights group, recently reviewed the Heritage Foundation's data and found just 68 documented cases of noncitizens' voting going back to the 1980s. And although the current frenzy is focused on undocumented immigrants, only a small fraction of those cases — just 10 — involved people living in the country illegally. (Heritage contends that its database is only a sampling of prosecuted cases.)

At times, much bigger, election-swaying numbers were cited, without proof. After the 2016 election, Mr. Trump claimed he would have won the popular vote — not just the electoral college vote — if it was not for the millions of votes cast by unauthorized immigrants. The commission he formed to investigate the matter disbanded without a final determination or findings of widespread fraud.

In 2019, Texas' secretary of state, David Whitley, claimed he had identified nearly 100,000 noncitizens on the rolls and demanded that many produce proof of citizenship.

Subsequent lawsuits and examination by voting rights advocates showed that the review was based on faulty methodology: The list included many people who had once submitted immigration documents to obtain a state identification. But they had since become naturalized as citizens, making them lawful voters. Mr. Whitley resigned amid blowback from the episode.

More recently, claims about noncitizens' voting have connected to a broader conspiracy theory, started by white supremacist groups, about immigrants arriving to "replace" U.S. citizens. Prominent Republican politicians, including Mr. Trump's vice-presidential candidate, Senator JD Vance of Ohio, and right-wing media figures have suggested that Democrats are deliberately allowing an "invasion" of immigrants and helping them vote in a bid to win elections.

In a speech last month in North Carolina, Mr. Vance said Vice President Kamala Harris's "party wants more power, and the way they're going to do it is she wants to give all those illegal aliens the right to vote."

Such claims have spiraled so far beyond the facts that even one prominent promoter of concerns about noncitizen voters recently shot them down. In written testimony before the House of Representatives in May, J. Christian Adams, the leader of the Public Interest Legal Foundation, stressed that "foreign voting, as my organization has witnessed, is not a grand conspiracy but rather a chaotic series of disparate and different events."

## Activists on the Ground





Cleta Mitchell, the founder of the Election Integrity Network, also helped form Only Citizens Vote, a project focused solely on noncitizen voting. Travis Dove for The New York Times

Ms. Mitchell, a longtime Republican lawyer who worked for Mr. Trump on his attempt to subvert the 2020 results, and her Election Integrity Network, a national coalition of activists, have been a leading force acting on the theory, according to a review of documents and recordings.

Ms. Mitchell worked this year with Representative Chip Roy, Republican of Texas, and Senator Mike Lee, Republican of Utah, on federal legislation that would require proof of citizenship to vote. And she joined with the conservative group Tea Party Patriots to form Only Citizens Vote, a project focused solely on the issue and supporting the bill.

“I think God put this in my heart,” Ms. Mitchell said on an organizing call in May.

Only Citizens Vote distributes kits instructing activists how to monitor voter registration groups, question elections officials and organize a “citizens watch” at elections offices. For state legislators, it offers model legislation and scripted questions to ask election officials.

Akyn Beck, who runs elections in rural Floyd County, Ga., said she had seen the group’s work in action. She recently tussled with local activists who accused her of recruiting undocumented immigrants to vote after she asked poll workers if they spoke Spanish among other languages. Her aim was to prepare to help accommodate voters not

proficient in English, she said.

One activist sent her a sign that was identical to one posted online by Only Citizens Vote. It shows a large stop sign and warns that people can be convicted of a crime and deported for voting. The message is repeated in Spanish on its other side.

Ms. Beck said she found the sign to be intimidating for voters and overly aggressive.

“For individuals who aren’t doing this for a living, I fear they just might not understand and maybe not want to cast a ballot out of fear of what could happen,” Ms. Beck said.

Asked about that concern, Ms. Mitchell noted in an email to The Times that the Georgia secretary of state and the state’s election board have both recently issued new guidance requiring polling places to post other signs noting citizenship requirements.

After Ms. Mitchell was included in a mass email in July that mentioned targeting ethnic neighborhoods, she warned the group to be “ever mindful not to use language or suggest actions that could be construed as intentionally or unintentionally having the effect of discouraging any legally eligible person from registering or voting.” Blanketing ethnic or minority neighborhoods with materials that are “not targeted at white neighborhoods could subject people to everything from negative publicity to criminal prosecutions,” she added.

Ms. Hennessy’s remarks on the Zoom call, which Ms. Mitchell did not participate in, occurred the same day. Asked about her remarks, Ms. Hennessy said in a statement that she regretted her language and would be stepping down from her leadership role in the Michigan chapter of Ms. Mitchell’s project.

“I do not want my inadvertent choice of words to be a distraction from the crucial work of the initiative Only Citizens Vote,” Ms. Hennessy said.

## Legal Wrangling







Groups, including the Republican National Committee, have filed lawsuits regarding noncitizen voting. Rebecca Noble for The New York Times

The activists' work is having an impact.

The Republican National Committee has filed two lawsuits in North Carolina claiming that the state has improperly allowed noncitizens on the voter rolls. In one of the cases, the party says it has found 225,000 "possible noncitizens" who should be removed from the rolls or required to vote on provisional ballots until they provide additional information.

Its case stems from data collected by activists affiliated with an Election Integrity Network group in North Carolina and others. On a call last month, activists discussed how to address the findings, with several acknowledging that there was no evidence that the voters were ineligible, but rather that there was a potential problem with how the list had been maintained, according to recordings reviewed by The Times.

"The forms were faulty," Jim Womack, a leader of the Election Integrity Network group in North Carolina, said in an interview with The Times. "You can't disenfranchise a voter because of a faulty form."

In a news release announcing the lawsuit, the party accused the elections agency of "opening the door for noncitizens to vote."

A spokesman for the North Carolina Board of Elections said the R.N.C. lawsuit



“misunderstands the data and vastly overstates any alleged problems with voter registrations.”

Other groups have filed lawsuits based on claims of noncitizen voting in Arizona and Wisconsin, both swing states where Mr. Trump challenged the results in 2020. The false theories about widespread noncitizen voting could be used to dispute the outcome again, said Elisabeth Frost, a lawyer with the Elias Law Group, which represents Democrats in elections cases.

“At the end of the day,” she said, “if certain players are in a position where they want to question the legitimacy of the results, they have built this entire atmosphere around it.”

Nick Corasaniti contributed reporting.

**Alexandra Berzon** is an investigative reporter covering American politics and elections for The Times. More about Alexandra Berzon

A version of this article appears in print on , Section A, Page 1 of the New York edition with the headline: Republicans Flag False Threat To Election: Immigrant Voting









**'Do NC voters have a right to fair elections?' A new redistricting lawsuit says yes**




**Under the Dome: NC lawsuit takes aim at election fairness**



**Federal judges appear skeptical of Black voters' challenge to NC Senate map**



**The key to a Trump win in NC? Showing voters their ballots count, RNC leader says**



**Democratic NC lawmaker who lost files protests alleging voting irregularities**

POLITICS & GOVERNMENT

# REALITY CHECK

## 'Political play' or election integrity? Fact-checking GOP voter registration lawsuits in NC

BY KYLE INGRAM  
UPDATED SEPTEMBER 09, 2024 1:32 PM



Voters wait at the early voting site at the Cary Senior Center on Oct. seeking to have more than 200,000 people removed from NC voter registration lists. ETHAN HYMAN [ehyman@newsobserver.com](mailto:ehyman@newsobserver.com)



Watch More

## RALEIGH

In a pair of lawsuits filed last month, national and state Republicans seek to purge North Carolina's voter rolls of hundreds of thousands of registrants they say were improperly allowed to register.

The complaints, filed in Wake County Superior Court by the Republican National Committee and the NC GOP, raise concerns about potential voting by noncitizens or otherwise ineligible voters who they argue could potentially sway the outcome of the November election.

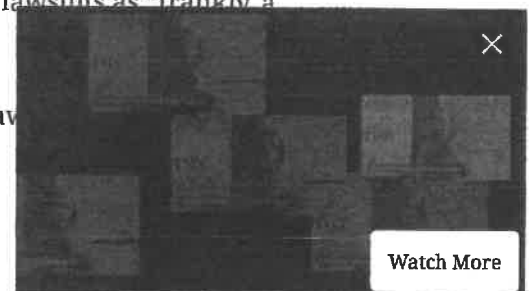
## TOP VIDEOS

But several of the GOP's claims are misleading or exaggerated, and they seek a solution that is expressly prohibited by federal law.

Sam Oliker-Friedland, the executive director of the Institute For Responsive Government, which studies election policy, described the lawsuits as "frankly a political play ... disguised as a legal strategy."

The News & Observer examined the claims in the RNC's lawsuit and looked into existing state and federal laws.

## WHAT DO THE LAWSUITS CLAIM?



X

The first lawsuit claims that the North Carolina State Board of Elections failed to properly implement a process for removing noncitizens from the voting rolls.

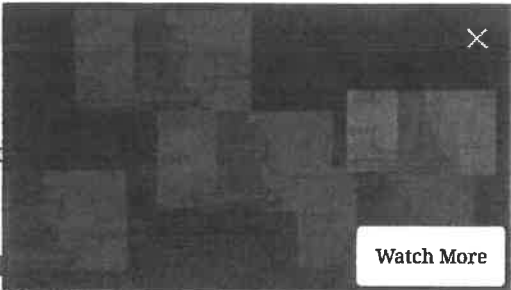
A new law passed last year requires the board to work with state courts to inspect jury questionnaire responses. The name of any potential juror who is excused due to self-identifying as a noncitizen will be shared with the board, which is required to use that information to maintain the state's voter rolls.

That part of the law did not take effect until July 1 of this year. The lawsuit claims that the board has not done enough to implement it and begin canceling the voter registrations of any noncitizens identified through the process.

The second lawsuit is more broad. It claims that the board prevented 225,000 people to register to vote without providing the required information.

The RNC asks the court to order the state to remove all of the registrations, making them ineligible to vote just months before Election Day.

**CAN THE STATE BOARD OF ELECTIONS REMOVE THE DISPUTED VOTERS FROM THE ROLLS?**



X

Per federal law, no.

The National Voter Registration Act prohibits states from systematically removing registrants within 90 days before an election. That deadline passed on Aug. 7.

Outside of this period, the board is able to conduct large-scale list maintenance efforts. The RNC filed its lawsuits after the deadline had passed.

### ARE NONCITIZENS ABLE TO VOTE IN NC ELECTIONS?

Per federal and state law, no.

Federal law makes it a crime for noncitizens to vote and NC law requires citizenship in order to register to vote.

Noncitizen voting has emerged as a Republican talking point, but there is no data to suggest that it poses a widespread issue.

The conservative Heritage Foundation conducted a [nationwide study](#) of elections between 2003 and 2023 and found only 24 instances of noncitizen voting.



X

validating when checked against the national databases for reasons that are not the registrant's fault.

Regardless, even if one of these voters did not actually have a form of identification and were therefore ineligible to vote, they would be asked to show ID at the polling place.

However, the RNC's lawsuit asks a court to order the board to immediately invalidate all 225,000 of these voters' registrations. This, as mentioned earlier, is illegal under the National Voter Registration Act.

Oliker-Friedland said there are far too many safeguards in place to consider implementing a voter purge such as this.

"If they're talking about 225,000 people disenfranchised for a clerical error that was not their fault, I think that would be a wild overreaction," he said. "...It would just simply mean that people can't vote because of paperwork, and that's not a fair outcome."

The deadline to register to vote in the 2024 election is Oct. 11.

**WHY DID THE RNC AND NC GOP FILE THESE LAWSUITS?**

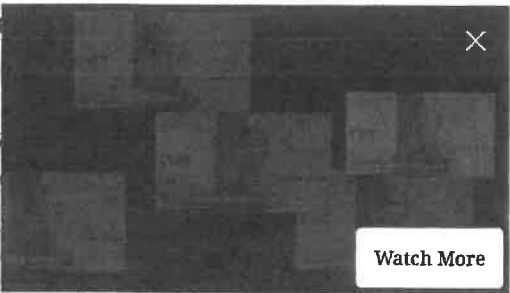
It depends on who you ask.

The RNC and NC GOP say the lawsuits are intended to promote election integrity and reduce the chance of fraud.

"This state board continually has problems ensuring voter rolls only have verified citizens," NC GOP Chair Jason Simmons said in a statement last month. "This lawsuit will remedy their ongoing refusal to collect the required information from those who want to take part in North Carolina elections."

Civil rights groups immediately criticized the lawsuits as a conspiracy theories and set the stage for claims of election

"The NC GOP have again asked a state court for relief that violates federal law, on the basis of a conspiracy theory that North Carolina contains hundreds of thousands of ineligible voters hiding in plain sight," the Southern Coalition for Social Justice said in a statement. "The lawsuits are for what they are: bad-faith attempts to sow chaos and doubt at the expense of North Carolinians' right to vote."



The North Carolina State Conference of the NAACP has filed a motion to intervene in

the case.

“Marginalized voters throughout this state have been consistently targeted through the exploitation of our elections,” Deborah Maxwell, president of the NC NAACP said in a statement. “We stand behind the words of our mission statement to advance the political rights of Black and brown voters, and we refuse to allow eligible voters to be disenfranchised, which is what the North Carolina Republican Party’s and RNC’s actions threaten.”

Oliker-Friedland said the lawsuit fit a pattern that began in 2020 of “preparing arguments for baseless claims that the election was stolen.”

*NC Reality Check is an N&O series holding those in power accountable and shining a light on public issues that affect the Triangle or North Carolina. Have a suggestion for a future story? Email [realitycheck@newsobserver.com](mailto:realitycheck@newsobserver.com)*

This story was originally published September 9, 2024, 5:00 AM.

## Under the Dome

Get the latest news and insider information from the world of politics and government in North Carolina.

**SIGN UP**

By submitting, I agree to the [Privacy Policy](#) and [Terms of Service](#).

### FOLLOW MORE OF OUR REPORTING ON REALITY CHECK

#### LOCAL

Hundreds of NC defense attorneys waited months for pay in 2016. It could happen again.

SEPTEMBER 09, 2024 5:30 AM

#### ELECTIONS

Trump tells NC police event rising crime is ‘brutal plague.’ They say it’s getting better

SEPTEMBER 07, 2024 6:00 AM

[SEE ALL STORIES →](#)

### RELATED STORIES FROM RALEIGH NEWS & OBSERVER

#### POLITICS & GOVERNMENT

‘Categorically false.’ NC elections board rejects noncitizen claims in GOP lawsuit

AUGUST 23, 2024 12:19 PM



**KYLE INGRAM**

THE NEWS & OBSERVER



X

Kyle Ingram is a politics reporter for the News & Observer. He reports on the legislature, voting rights and more in North Carolina politics. He is a graduate of the Hussman School of Journalism and Media at UNC-Chapel Hill.

Take Us With You

Real-time updates and all local stories you want right in the palm of your hand.

 RALEIGH NEWS & OBSERVER APP →

[VIEW NEWSLETTERS →](#)

SUBSCRIPTIONS

- Start a Subscription
- Customer Service
- Edition
- Triangle Now
- Vacation Hold
- Pay Your Bill

LEARN MORE

- About Us
- Contact Us
- Newsletters
- Legal Notices
- Archives
- Sports Betting
- Personal Finance

ADVERTISING

- McClatchy Advertising
- Place an Ad



Part of the McClatchy Media Network