

Dangers of “Ballot Security” Operations: Preventing Intimidation, Discrimination, and Disruption

By Wendy Weiser and Adam Gitlin

Over the past few months, the issue of voting has been thrust to the center of public discussion. Multiple courts across the country ruled against discriminatory and disenfranchising new voting laws, and politicians [responded](#) by [claiming](#) our elections are “[rigged](#).” Some have gone so far as to [call](#) for off-duty police officers to monitor polling places and for citizen volunteers to serve as “election observers” to root out supposed fraud — even though overwhelming evidence makes clear that polling place fraud is [virtually nonexistent](#).

But deploying non-official, private actors to conduct supposed “ballot security” operations or to challenge whether a voter can cast a ballot is highly risky: it can easily lead to illegal intimidation, discrimination, or disruptions at the polls.

Drawing on extensive research and prior publications, this fact sheet outlines the threat posed by so-called ballot security and poll-watching operations, how such operations can cross the line to illegal activity, what is and is not allowed under the law, and what must be done to protect against intimidation, discrimination, confrontations, and other potentially harmful activity at the polls this November.

Election officials can — and should — take steps now to minimize the risk of problems on and before Election Day.

WHAT CONDUCT IS NOT ALLOWED?

Every state has different rules about whether and how individuals can serve as poll watchers or challenge the eligibility of targeted voters at the polls or before Election Day. Regardless of what each state’s procedures are, [federal and state laws](#) affecting the whole country prohibit conduct that intimidates voters, targets voters based on race or other characteristics, or intentionally blocks eligible citizens from voting. In addition, as one federal court said, the “presence of vast numbers of challengers inexperienced in the electoral process” can “impose[] a severe burden on the right to vote of individual voters.”¹ These laws protect voters against baseless challenges and other conduct that interferes with their fundamental right to vote.

- **The Law Prohibits Discriminating Against Voters.** Government officials are prohibited under the Voting Rights Act,² the U.S. Constitution,³ and many state laws from discriminating against voters in any way based on race, ethnicity, national origin, language, or religion, or from allowing any discriminatory conduct by private actors to affect voters. Doing so can result in a prison sentence of five years, a fine of \$5,000, or both.⁴
 - Poll workers may not ask voters of only certain ethnic or racial groups to show ID or to answer questions to vote, or treat voters differently in any way based on race or other protected characteristics.
 - Election officials may not accept a poll watcher's challenge to a voter's eligibility and prevent that person from voting if the challenge was discriminatory.

Federal law, and many state laws, prohibit both private actors and government officials from using the race, ethnicity, national origin, language, or religion of a person as the basis for challenging whether that person is qualified to vote.⁵ Problematic practices include:

- Challenging a person's eligibility to vote based on the racial or ethnic makeup of a precinct or polling place.
 - Challenging a person's eligibility to vote based on mailings targeted at individuals living in precincts with large concentrations of minorities.
- **The Law Prohibits Conduct that Intimidates Voters.** Private actors and government officials are prohibited by the Voting Rights Act from engaging in any efforts to intimidate, threaten, or coerce a voter to vote or not vote, or to vote for or against a particular candidate.⁶ That prohibition applies even where there is no intentional discrimination.⁷ State laws have similar prohibitions: In Pennsylvania, for example, intimidating a voter carries a penalty of up to seven years in prison and \$15,000. And doing so outside the person's own designated polling place is a separate offense.⁸

Intimidation includes, but is not limited to:

- Baseless or abusive challenges to voters' eligibility.
 - Direct confrontation of voters.
 - Use of insulting, offensive, or threatening language or raised voices in and around polling places.
 - Blocking polling-place entrances.
 - Following and photographing voters, recording license plate numbers, and visiting voters' homes.
 - Brandishing weapons in front of voters.
 - Dissemination of misleading information about elections, including flyers or other communications that purposely misstate the time and date of an election, where it will be held, and how voting will happen.
- **State Law Otherwise Limits Poll Watching Activities.** Every state allows for volunteer poll watchers in some capacity. All of the limitations described above apply with equal force to poll watchers. In all states, if observers violate those rules or otherwise interfere with voting, they can be removed. In addition to those general restrictions, poll watching is a carefully circumscribed activity:

- Generally, a person must be credentialed as a poll watcher, often in advance of the election. At least 40 states have a formal accreditation process for partisan citizen observers.⁹
 - Poll watchers often must be assigned to a particular polling place or set of polling places, and, as in states like Pennsylvania, must be registered in the jurisdiction in which the watcher plans to serve.¹⁰
 - Typically, political parties, candidates and ballot-issue committees can have poll watchers. In some states, like New Mexico, civic groups like Election Protection operations, and international and academic groups, can also have poll watchers appointed.¹¹
 - Some states sharply curtail poll watchers' actions, by, for example, specifically prohibiting them from interacting with voters.¹²
- **State Law Further Limits Challenges.** In 39 states, private citizens can challenge voters at the polls. Many states reserve the practice for voters in the same jurisdiction, in addition to election officials. States also limit the basis and procedures of challenges:
 - 15 states require challengers to show some form of documentation to support the challenge. In others, like South Carolina and Virginia, mere suspicion that a voter is ineligible is enough.¹³ Most states explicitly require a good-faith basis or “good reason” for a challenge. Discrimination, as described above, is not a good-faith basis for a challenge.
 - Most states that allow election-day challenges permit challenges to eligibility, but there are exceptions. Notably, Pennsylvania prohibits election-day challenges on the basis of eligibility, but permits those challenges when based on the voter's identity or residency.¹⁴
 - Challengers generally cannot directly confront or address the challenged voter, and often must pose the challenge directly to a specific election official. The burden of proof is usually on the challenger,¹⁵ though some states, at a certain point, place it on the voter by requiring, for example, for the voter to find another voter registered in the same jurisdiction to sign an affidavit on their behalf.¹⁶
- **The Law Limits the Use of Police or Official Garb in Polling Places.** The presence of law enforcement officials or poll watchers wearing official-seeming clothing in polling places for ballot security operations has been found to intimidate voters.¹⁷ A number of states expressly prohibit the presence of law enforcement at the polls. Pennsylvania, for example, bans police officers from being at or near polling places unless they are there to vote or serve warrants.¹⁸ Other states, like Tennessee, have similar prohibitions.¹⁹ Federal law also prohibits U.S. military officers from interfering in state elections.²⁰
- **The Law Limits the Possession of Weapons in and Around Polling Places.** Openly carrying a gun into a polling place may be per se prohibited given the potential for voter intimidation, and many states explicitly ban brandishing firearms in public.²¹ Some states prohibit carrying weapons in polling places, regardless of whether the weapon is concealed. Texas, for example, prohibits intentionally, knowingly, or recklessly possessing a firearm (among other weapons) on the premises of a polling place on the day of an election or during early voting.²² Even states without such strict laws often prohibit guns at a polling place if the polling place otherwise would not allow guns—for example, schools and

courthouses in Pennsylvania. Election officials in these states have at times issued specific rules to prevent intimidation.²³

- **The Law Prohibits Conspiring to Interfere with Voters' Rights.** Federal law prohibits any person from conspiring with others to deprive a voter of her right to vote or her right to vote free from discrimination or intimidation.²⁴ Violators can face up to 10 years in prison. These laws cover discriminatory challenge operations. Election officials are prohibited from engaging in any conduct to deprive a person of her rights under the Voting Rights Act.²⁵

BALLOT SECURITY IN PRACTICE: VOTER INTIMIDATION AND DISCRIMINATION

“Ballot security” operations have a long history of sliding quickly from efforts that supposedly guard the integrity of our elections into improper voter intimidation or discrimination. This is not surprising, given that the individuals carrying them out are not professionals, and given the heated environment of election campaigns. In addition to interfering with the rights of targeted voters, this conduct risks disrupting polling places and creating longer lines. Here are some examples of ballot security operations gone awry.

Discriminatory Challenges to Voters' Eligibility

Political operatives have frequently used [the challenge process](#) to target voters based on race, ethnicity, and other prohibited grounds, often disrupting polling places and leading to long lines and even confrontations at the polls. Abuses also occur as a result of “[voter caging](#),” which involves sending out a mailing targeting specific kinds of voters, and then using the challenge process to urge election officials — before Election Day or at the polls — to deny those individuals the right to vote solely on the basis of the mailing being returned as undeliverable.

- In 2012, activists [challenged](#) the registrations of more than 2,100 Ohio voters, especially students and African Americans. Those challenges proved baseless.
- Two months before the 2008 general election, political party officials in Macomb County, Michigan [claimed](#) they planned to challenge the residency of voters whose homes had been foreclosed. The plan, which would have disproportionately affected low-income and minority voters, was [abandoned](#) after a lawsuit was filed.
- In 2004 in Ohio, litigation was [filed](#) over a plan to post 3,500 challengers across the state because it was discriminatory. Under the plan, 97 percent of new voters in majority-black precincts would have [faced](#) a challenge, compared to only 14 percent of new voters in majority white precincts. This and other problems with polling place challenges [prompted](#) the state to ban private challenges from the polls in 2006.
- During a 2004 primary election in Bayou La Batre, Alabama, poll watchers [targeted](#) Asian-American voters for citizenship and residency-based challenges. These challengers were appointed by a white city council member who was running against the first serious Vietnamese-American candidate for local office.
- In Atkinson County, Georgia in 2004, residents [made](#) blanket challenges to most of the Hispanic voters in their precinct, alleging they were not U.S. citizens. One resident even asked the board of elections for the names of every voter with a Hispanic surname, and went on to challenge most of them.

- In Washington State in 2004, a man [challenged](#) the voting credentials of hundreds of voters, claiming they were illegal immigrants. He made his list by looking for names that appeared foreign, eliminating names that “clearly sounded American-born, like John Smith or Powell.”
- During the 2002 midterm elections, challengers [tried](#) to stop hundreds of Dartmouth University students from voting based on their residency. The town’s chief election official said the incident caused “complete chaos” at the polls.
- Examples go back over a century. During a special election in Lisle, N.Y., in 1918 — the first election after women won the right to vote in the state — every woman who attempted to cast a ballot was [challenged](#) at the polls.

Intimidating Voters at the Polls

Ballot security operations can devolve into outright [voter intimidation](#) and harassment.

- In August 2016, *The New York Times* [documented](#) voter intimidation in Georgia, where “[t]he majority-white Hancock County Board of Elections and Registration was systematically questioning the registrations of more than 180 black Sparta citizens — a fifth of the city’s registered voters — by dispatching deputies with summonses commanding them to appear in person to prove their residence or lose their voting rights.”
- In 2012, activists in Wisconsin “streamed into poor black and Latino precincts around Racine, hunting for evidence that people were cheating.” An official investigation yielded no evidence of fraud but many reports of voter intimidation. There were also [reported](#) sightings of “poll watchers tailing vans that were transporting voters to the polls, snapping photos of voters’ license plates, even directing voters to the wrong polling places.”
- In 2010, activists in Harris County, Texas, [filed](#) 56 complaints against activists who “hover[ed] near voters,” “[got] into elections workers’ faces,” and “block[ed] and disrupt[ed] lines of voters” in predominantly African-American and Hispanic precincts during the early voting period. The [reports](#) prompted the county attorney’s office and the U.S. Department of Justice to [investigate](#).
- Also in 2010, volunteer poll watchers [questioned](#) the eligibility of voters who lived at a psychiatric hospital in Burrillville, Rhode Island, and pressured poll workers to ask impermissible questions of the voters. The incident prompted a local police investigation and led state election officials to seek new regulations governing polling place conduct.
- In 2008, Michigan police officers reportedly [scanned](#) lines of voters for persons with outstanding warrants.

Deceptive Practices

Other abusive practices include raw attempts to deceive voters, deliberately providing [misinformation](#) about an election.

- In 2010, before the polls closed on Election Day, the manager of a Republican gubernatorial campaign in Maryland reportedly [ordered](#) more than 100,000 robocalls to Democratic voters, falsely informing them the Democratic gubernatorial candidate had already won the election. Local prosecutors later [alleged](#) the calls were part of a deliberate effort to suppress voters in African-American voting districts.

- In 2008 in Philadelphia, flyers posted near Drexel University incorrectly [warned](#) that police officers would be at polling places looking for individuals with outstanding arrest warrants or parking tickets.
- In 2004 in Ohio, flyers in Franklin County [told](#) voters that due to heavy voter registration, Republicans should vote on Tuesday and Democrats should vote on Wednesday.

CASE STUDY IN DANGERS OF BALLOT SECURITY OPERATIONS: RNC CONSENT DECREE

The [litigation](#) over the Republican National Committee's ballot security programs over the years shows a continuing risk of harassment and discrimination in such operations.

The conduct that prompted the lawsuit occurred in the 1981 New Jersey gubernatorial election. The RNC allegedly targeted ethnic minority voters for challenges, and stationed off-duty sheriffs and policemen, some wearing their official uniforms and carrying firearms, at polling places in minority precincts, intimidating voters. As a result, in 1982, the Republican National Committee and New Jersey Republican State Committee entered into a consent decree with their Democratic Party counterparts. Under that decree, as subsequently modified, the Republican Party organizations agreed to allow a federal court to review proposed "ballot security" programs before implementing them. But the conduct has not stopped:

- In 1987, the RNC's Midwest political director explained that in a Louisiana congressional election, he "would guess that this [caging] program will eliminate at least 60,000-80,000 folks from the rolls If it's a close race ... which I'm assuming it is, this could keep the black vote down considerably."
- In 1990, the RNC worked with the North Carolina Republican Party to send 150,000 postcards to residents of predominantly African-American precincts, falsely stating that voters must have lived in the precinct where they cast their ballot for at least 30 days prior to the election.
- In 2004, the RNC was again held to have violated the decree by implementing a caging program that covered 35,000 predominantly minority individuals in Ohio.
- In 2009, a [federal](#) court found, and the Third Circuit Court of Appeals [affirmed](#), that "minority voters still face the prospect of widespread intimidation due to the incentives" of the RNC and state Republican parties to suppress minority voter turnout. The court allowed the decree to remain in effect at least until December 2017.
- In 2016, the DNC [filed](#) a motion arguing that the RNC had violated the decree again.

THE DISCRIMINATORY ORIGINS OF CHALLENGER LAWS

It is no wonder that challenger laws are so susceptible to abuse: Many states [originally enacted](#) challenger laws to block minority voters' access to the polls.

- Virginia passed its first challenger law in 1870, in the immediate wake of Reconstruction and as part of a package of suppressive measures, such as poll taxes and literacy tests, aimed at recently freed former slaves. Newspaper [accounts](#) from this period show that white citizens routinely took advantage of these new suffrage restrictions to challenge black voters at the

polls. For example, one reported in 1896 that “Democrats had sent out challengers, and every colored man’s vote was contested” in one Richmond ward.

- Florida, Ohio, and Minnesota passed challenger legislation during the 19th century to suppress turnout in black communities — some quite blatant: The version passed by Ohio in 1868 required election judges to challenge any prospective voter who had a “distinct and visible admixture of African blood.”²⁶
- In 1891, Texas Democratic state legislators enacted new challenge procedures specifically to suppress turnout among black and working-class voters in Dallas.

THE POTENTIAL FOR IMPROPER PRACTICES IN A CLIMATE OF INTENTIONAL DISCRIMINATION

Challenges and other ballot-security measures are especially ripe for abuse in a racially charged environment. Recent court rulings against new state laws that would have made it harder to vote make clear that intentional discrimination in the voting context is still all too common.

- In North Carolina, the Fourth Circuit Court of Appeals [ruled](#) in late July 2016 that, soon after the Supreme Court gutted the Voting Rights Act’s requirement that states get federal approval before changing voting rules, the legislature passed a law that significantly cut access to voting and intentionally discriminated against African Americans. Specifically, the Court of Appeals said that “the new provisions target African Americans with almost surgical precision.”
- In Wisconsin, around the same time, a district court [struck down](#) several voting law changes, finding that legislative restrictions on hours for in-person absentee voting “was specifically targeted to curtail voting in Milwaukee without any other legitimate purpose. The legislature’s immediate goal was to achieve a partisan objective, but the means of achieving that objective was to suppress the reliably Democratic vote of Milwaukee’s African Americans.”
- In Texas, a district court [found](#) that the Texas legislature had passed one of the strictest photo ID laws in the nation with racially discriminatory intent. In July 2016, the full Fifth Circuit Court of Appeals [agreed](#) that the law had a racially discriminatory effect in violation of Section 2 of the Voting Rights Act. The appellate court sent the law back to the district court for further review of the discriminatory intent claim, noting that there were sufficient facts in the record that could support a finding of intentional discrimination.

Public officials have been repeatedly caught [admitting](#) their support for new voting laws to discriminate against certain voters.

- At a May 2016 trial on Wisconsin’s voting restrictions, former Republican staffer Todd Allbaugh [testified](#) that some Wisconsin legislative leaders were “giddy” that the state’s strict photo ID law could keep minority and young voters from the polls.
- Responding to an interview question about Republican’s chance at the presidency in 2016, U.S. Rep. Glenn Grothman, who helped pass the state’s photo ID law as a state senator, [said](#), “Now we have voter ID and I think voter ID is going to make a little bit of a difference as well.”

- In 2012, then-Pennsylvania House Majority Leader Mike Turzai, a champion of the state's strict voter ID law (which has since been struck down), [announced](#) that the law "is going to allow Governor Romney to win the state of Pennsylvania" — presumably because it would keep certain voters from participating.

HOW CAN STATE OFFICIALS AND VOTERS PROTECT AGAINST PROBLEMS?

State officials need to be prepared for improper ballot security operations. Specifically, they must:

- Issue clear and detailed guidance, with examples of prohibited behavior, to prevent challenges from resulting in intimidation and ensure that challenges are not grounded on unreliable bases.
- Train poll workers on what the rules are for private citizens observing the election, how not to be intimidated by private citizens appearing at the polls to challenge voters, how to remove individuals making improper challenges from the polling place, and how to prevent challenges from disrupting the orderly functioning of elections.
- Clearly post the rules applicable to non-voters, and educate the public on those rules. In states where it's the law, that includes the rule that poll monitors cannot talk to voters.
- Be prepared to protect polling places from disruptive or discriminatory behavior and ensure immediate removal of disruptors that could intimidate voters or deter them from exercising their rights.

Voters can also take steps to protect their rights:

- Voters who experience or witness any of the discriminatory, intimidating, or deceptive conduct discussed above should immediately report the problem to election authorities and, when appropriate, to law enforcement authorities.
- Voters should also call 866-OUR-VOTE, a nonpartisan voter protection hotline. Trained volunteers will be able to provide assistance and take steps to ensure you can exercise your right to vote. Voters can also call 888-VE-Y-VOTA for assistance in Spanish, 888-API-VOTE for assistance in Cantonese, Mandarin, Tagalog, Korean, or Vietnamese, and 844-418-1682 for assistance in Arabic.
- Voters should also report the offensive conduct to the Voting Section of the United States Department of Justice by calling 800-253-3931 or via email at Voting.Section@usdoj.gov.

FOR MORE INFORMATION

- For more on what conduct is not allowed, see [Ballot Security and Voter Suppression: What It Is and What the Law Says](#) and [Voter Challengers](#) (which includes a 50-state guide to challenger laws and was last updated in 2012).
- For more abuses of the challenge process, see the Brennan Center's reports on [Voter Challengers](#) and [A Guide to Voter Caging](#).
- For more examples of deceptive practices, see Election Protection's [webpage](#).
- For more information on the RNC consent decree, see the Brennan Center's [webpage](#).
- For more on the origins of voter challenge laws, see [Voter Challengers](#) (pp. 7-10).

- For more information about ongoing litigation against voting restrictions, see the Brennan Center’s [voting litigation-tracking map](#). For more information about the Texas voter ID case specifically, see the Brennan Center’s [webpage on the case](#).
- For more examples of politicians acknowledging the effects of voting restrictions, see the Brennan Center’s webpage, [“When Politicians Tell the Truth on Voting Restrictions.”](#)

¹ *Spencer v. Blackwell*, 347 F. Supp. 2d 528, 535 (S.D. Ohio 2004).

² 52 U.S.C. §§ 10301, 10303(f)(2), 10503.

³ U.S. Const. Amendments. I, XIV, XV.

⁴ 52 U.S.C. § 10308.

⁵ For example, 42 U.S.C. § 1983 prohibits anyone acting under color of law from depriving any individual of his or her constitutional rights, including his or her rights to vote and to equal protection of the laws. *See also* D.C. CODE § 1-1001.09(d)(2) (“[A] voter shall not be challenged solely on the basis of characteristics or perceived characteristics not directly related to the challenged voter’s status as a registered qualified elector, including race, color, religion, sex, personal appearance, sexual orientation, gender identity or expression, matriculation status, political affiliation, or physical disability.”); *Spencer v. Blackwell*, 347 F. Supp. 2d 528 (S.D. Ohio 2004) (granting plaintiffs’ request to block all challengers from the polls, because otherwise the facts created a serious risk of state officials “discriminating against black voters ... on the basis of race”).

⁶ 52 U.S.C. §§ 10101(b), 10307(b).

⁷ *Willingham v. County of Albany*, 593 F. Supp. 2d 446, 463 (N.D.N.Y. 2006).

⁸ 25 PA. STAT. ANN. §§ 3527-28 (penalizing any person who “shall use or practice any intimidation, threats, force or violence with design to influence unduly or overawe any elector, or to prevent him from voting or restrain his freedom of choice”), available at <http://codes.findlaw.com/pa/title-25-ps-elections-electoral-districts/pa-st-sect-25-3527.html>; <http://codes.findlaw.com/pa/title-25-ps-elections-electoral-districts/pa-st-sect-25-3528.html> (last visited Aug. 18, 2016).

⁹ National Conference of State Legislatures, Policies for Election Observers (Oct. 12, 2016), <http://www.ncsl.org/research/elections-and-campaigns/policies-for-election-observers.aspx>.

¹⁰ 25 PA. CONS. STAT. ANN. § 2687.

¹¹ *See, e.g.*, N.M. STAT. ANN. § 1-2-25.

¹² *See, e.g.*, FLA. STAT. § 101.131(1).

¹³ VA. CODE ANN. § 24.2-651; S.C. CODE ANN. § 7-13-810.

¹⁴ 25 PA. CONS. STAT. ANN. § 3050(d).

¹⁵ *See, e.g.*, ARIZ. REV. STAT. ANN. § 16-121.01(B) (proper registration is presumed and can only be rebutted by clear and convincing evidence that the voter is improperly registered).

¹⁶ *See, e.g.*, 25 PA. CONS. STAT. ANN. § 3050(d).

¹⁷ *See Democratic Nat’l Committee v. Republican Nat’l Committee*, 671 F.Supp. 2d 575, 579-80, 610-613 (D.N.J. 2009).

¹⁸ *See* Pennsylvania law on this point. 25 PA. STAT. ANN. §§ 3047, 3520, available at <http://codes.findlaw.com/pa/title-25-ps-elections-electoral-districts/pa-st-sect-25-3047.html>; <http://codes.findlaw.com/pa/title-25-ps-elections-electoral-districts/pa-st-sect-25-3520.html> (last visited Aug. 17, 2016).

¹⁹ TENN. CODE ANN. § 2-7-103 (“No police or other law enforcement officer may come nearer to the entrance to a polling place than ten feet (10¢) or enter the polling place except at the request of the officer of elections or the county election commission or to make an arrest or to vote.”), available at <http://law.justia.com/codes/tennessee/2010/title-2/chapter-7/2-7-103> (last visited Aug. 17, 2016).

²⁰ 52 U.S.C. § 10102.

²¹ *See, e.g.*, MICH. COMP. LAWS ANN. §750.234e (West 2016).

²² TEX. PENAL CODE ANN. § 46.03(a)(2).

²³ *See, e.g.*, PENNSYLVANIA DEP’T OF STATE, GUIDANCE ON RULES IN EFFECT AT THE POLLING PLACE ON ELECTION DAY 3 (“Individuals inside or outside the polling place who behave aggressively with a firearm or who ostentatiously demonstrate that they are carrying a firearm and that behavior either is intended to or has the effect of intimidating voters will be removed, reported to the appropriate authorities for investigation and prosecution.”), available at <http://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/DOS%20GUIDANCE%20ON%20RULES%20IN%20EFFECT%20AT%20THE%20POLLING%20PLACE%20ON%20ELECTION%20DAY%2010-16.pdf>.

²⁴ 42 U.S.C. § 1985(3) (providing cause of action if “two or more persons . . . conspire . . . for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal

privileges and immunities under the laws”); 8 U.S.C. §§ 241 & 242 (carrying penalties of fines and imprisonment up to ten years for conspiracies to intimidate a person); 52 U.S.C. § 10308(c).

²⁵ 52 U.S.C. §§ 10307(a) – (b), 10308 (a).

²⁶ Act of Apr. 16, 1868, § 1, 1868 Ohio Gen. & Loc. Laws 1st Sess. 97, 97 (L.D. Myers & Bro. 1868) (on file with HeinOnline Session Laws Library) (“[I]t shall be the duty of the judges of election to challenge any person offering to vote at any election held under any law of this state, having a distinct and visible admixture of African blood.”).