



## ARTICLE

## Revisiting Public Opinion on Voter Identification and Voter Fraud in an Era of Increasing Partisan Polarization

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**Abstract.** This Article updates previous findings concerning the relationship between voter identification laws and perceptions of voter fraud. Courts have established that voter identification laws can be justified as measures that safeguard “voter confidence.” We demonstrate once again, but with the benefit of new survey data, that people who live in states with voter identification laws do not have greater confidence in elections or perceive lower rates of voter impersonation fraud. Since we last published on the subject, however, we notice an increase in the partisan structure of public opinion on voter identification and voter fraud. As the issue has become more salient and partisan in tone, partisan identity has become a more powerful variable in predicting both support for voter identification laws and beliefs in the prevalence of voter fraud. We note, however, that strong majorities continue to support such laws, even though a large share of the population remains unaware of the existence of voter identification requirements.

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**Table of Contents**

Introduction .....	1457
I. The Changing Partisan Structure of Support for Voter Identification Laws.....	1460
II. Beliefs About the Prevalence of Voter Fraud .....	1466
A. Beliefs About the Prevalence of Voter Impersonation .....	1470
B. Perceptions of Fraud and the Likelihood of Voting.....	1473
C. Perceptions About Fraud and Voter Confidence.....	1477
III. Knowledge of Voter Identification Laws and Beliefs About Their Effects.....	1480
Conclusion.....	1483
Appendix A .....	1485
Appendix B.....	1487
Appendix C .....	1489

## Introduction

Eight years ago, we published the first study on the relationship between voter identification laws and public attitudes concerning voter fraud.<sup>1</sup> That article, like this one, was motivated by the unique constitutional argument gaining favor in the courts positing that voter identification laws could be justified as a measure to instill voter confidence in elections.<sup>2</sup> Some advocates and judges argued that such laws would do so by convincing voters that, whatever the reality, such laws decrease voter fraud at the polls. We demonstrated then that public perception of voter fraud was unrelated to the presence or absence (or stringency) of voter identification laws.<sup>3</sup> Although voter identification laws were popular among the general population, as well as among subsets based on race and party, such laws did not have any appreciable impact on voters' perceptions of the prevalence of voter fraud or on voter turnout.<sup>4</sup> We revisit those findings here with the benefit of new public opinion data and more experience with voter identification laws in a greater number of states.

One additional motivating factor behind this Article is the debate concerning our earlier article that occurred among judges in the Seventh Circuit Court of Appeals in a recent challenge to Wisconsin's voter identification law, *Frank v. Walker*.<sup>5</sup> Striking down the law, the district court in that case had credited expert testimony that relied on our earlier article.<sup>6</sup>

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1. Stephen Ansolabehere & Nathaniel Persily, *Vote Fraud in the Eye of the Beholder: The Role of Public Opinion in the Challenge to Voter Identification Requirements*, 121 HARV. L. REV. 1737, 1760 (2008) ("The use of photo identification requirements bears little correlation to the public's beliefs about the incidence of fraud. The possible relation of such beliefs to participation appears even more tenuous. This lack of empirical support leads us to conclude that, at least in the context of current American election practices and procedures, public perceptions do not provide a firm justification for voter identification laws.").
  2. See, e.g., *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 197 (2008) (plurality opinion) ("[P]ublic confidence in the integrity of the electoral process has independent significance, because it encourages citizen participation in the democratic process."); *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam) ("Voter fraud drives honest citizens out of the democratic process and breeds distrust of our government. Voters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised.").
  3. Ansolabehere & Persily, *supra* note 1, at 1757 & tbl.4, 1758, 1760.
  4. *Id.* at 1754-58.
  5. 768 F.3d 744, 751 (7th Cir. 2014).
  6. *Frank v. Walker*, 17 F. Supp. 3d 837, 851 (E.D. Wis. 2014) ("[T]he defendants produced no empirical support for the notion that Act 23's photo ID requirement actually furthers this interest [in protecting the public's confidence in the integrity of elections]. In contrast, one of the plaintiffs' expert witnesses, Barry Burden, a professor of political science at the University of Wisconsin-Madison, testified that the available empirical evidence indicates that photo ID requirements have no effect on confidence

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The panel opinion reversed, dismissing our *Harvard Law Review* study as not being published in a “refereed scholarly journal” and as “report[ing] the results of one opinion poll of people living throughout the country.”<sup>7</sup> According to the panel, “[i]f the public thinks that photo ID makes elections cleaner, then people are more likely to vote or, if they stay home, to place more confidence in the outcomes. These are substantial benefits.”<sup>8</sup> In a dissent joined by four other judges from the denial to rehear the case en banc, Judge Posner relied on our article to argue:

[T]hese laws do not reduce such fraud, for if they did one would expect perceptions of its prevalence to change. The study also undermines the suggestion in the panel’s opinion (offered without supporting evidence) that requiring a photo ID in order to be allowed to vote increases voters’ confidence in the honesty of the election, and thus increases turnout. If perceptions of the prevalence of voter-impersonation fraud are unaffected by the strictness of a state’s photo ID laws, neither will confidence in the honesty of elections rise, for it would rise only if voters were persuaded that such laws reduce the incidence of such fraud.<sup>9</sup>

With the benefit of new survey data, we explore in this Article whether experience with these laws over the past half-decade has changed public beliefs about the incidence of fraud and the tendency to participate in elections. We conclude that there continues to be no empirical evidence that the presence of photo ID laws has a salutary effect on voter confidence. If anything, the evidence we present here suggests that the rise of these laws has coincided with a politicization of opinions about election administration, leading to a slight *increase* in voter beliefs about the prevalence of fraud.

In revisiting previous empirical research about the relationship between strict voter ID laws, citizen confidence, and voter turnout, we also aim to

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or trust in the electoral process. He described a study conducted by Stephen Ansolabehere and Nathaniel Persily and published in the *Harvard Law Review* which looked at the relationship between photo ID laws and voter confidence in the electoral process. See Stephen Ansolabehere & Nathaniel Persily, *Vote Fraud in the Eye of the Beholder: The Role of Public Opinion in the Challenge to Voter Identification Requirements*, 121 HARV. L. REV. 1737, 1756 (2008). Burden explained that this study employed multivariate analysis of survey data and found ‘zero relationship’ between voter ID laws and a person’s level of trust or confidence in the electoral process.”, *rev’d*, 768 F.3d 744 (7th Cir.), *reh’g en banc denied by an equally divided court*, 773 F.3d 783 (7th Cir. 2014), *cert. denied*, 135 S. Ct. 1551 (2015).

7. *Frank*, 768 F.3d at 751. To be clear, we conducted two public opinion surveys for the earlier article and mentioned others on the same topic. See Ansolabehere & Persily, *supra* note 1, at 1739, 1742-43.

8. *Frank*, 768 F.3d at 751.

9. *Frank v. Walker*, 773 F.3d 783, 794 (7th Cir. 2014) (Posner, J., dissenting from denial of rehearing en banc); see also *id.* (“The panel opinion dismisses the Ansolabehere [sic] and Persily article on the ground that because it was published in the *Harvard Law Review*, it was not peer-reviewed. So much for law reviews. (And what about Supreme Court opinions? They’re not peer-reviewed either.)”).

demonstrate that courts (and many social scientists) have erred by adopting an obsolete theory about how citizens incorporate information about public policy into their attitudes about government. The theory that has underlain analysis of the effects of strict voter identification laws assumes that direct experience with a photo identification requirement will demonstrate to voters that mechanisms are in place to safeguard against voter fraud; seeing or hearing about these laws being passed and implemented will reassure voters about the honesty of the electoral process. Thus, by this argument, even if strict voter ID laws do not actually have a deterrent effect on fraud, and even if impersonation fraud occurs with a frequency that approaches zero, when a voter observes a strict ID law being implemented, she or he will be reassured about the efficacy of elections, and this reassurance redounds to the benefit of democracy.

However, this theory underlying how courts and many scholars have thought about the link in the public mind between voter ID laws and voter reassurance is contrary to the prevailing view within the public opinion literature about how mass publics assess the efficacy of public policy, especially policies that have partisan overtones. The prevailing view is that political partisanship is a deeply held identity among many (and even most) voters, and it is through this identity that they judge government policies.<sup>10</sup> Voters take their cues from party leaders when they judge how well policies are working.<sup>11</sup> If elites associated with the two parties take similar positions on an issue, or if they take no identifiably partisan positions, the mass public will not judge the issue in a partisan manner and is likely to judge it based on factors such as demographics, economic interests, etc. If statements and positions by party elites diverge, opinions by followers will diverge as well, sometimes overshadowing objective interests that the followers themselves might otherwise have. This view has been confirmed across a wide variety of policy domains, both in domestic and foreign policy.<sup>12</sup> There is no reason to believe election policy should be any different. Indeed, given the direct relationship between election regulation and party success at the polls, we should expect partisanship to be an even more powerful predictor of opinion in this domain than in others.

We begin in Part I by examining attitudes toward voter identification laws. We find continued support for such laws but a widening gap in support between Democrats and Republicans. The partisan structure of opinion is particularly pronounced among those who follow the news closely and are

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10. DONALD GREEN ET AL., PARTISAN HEARTS AND MINDS: POLITICAL PARTIES AND THE SOCIAL IDENTITIES OF VOTERS 204-10 (2002).

11. JOHN R. ZALLER, THE NATURE AND ORIGINS OF MASS OPINION 310-32 (1992).

12. *See, e.g.*, ADAM J. BERINSKY, IN TIME OF WAR: UNDERSTANDING AMERICAN PUBLIC OPINION FROM WORLD WAR II TO IRAQ 85-126 (2009) (describing public opinion concerning military and foreign policy).

therefore more likely to pick up signals as to the Democratic and Republican positions on voter identification. Most of the movement in public opinion that we discern from the half-decade of polls has occurred among Democrats, who are now much less likely to support voter identification laws than Republicans. Part II examines attitudes about the prevalence of voter fraud. Here, too, we find increasing divergence between partisans, with Republicans more likely than Democrats to believe that voter impersonation fraud is very common. However, as in our earlier article, we find no relationship between the presence of a voter ID law and respondents' belief in the frequency of fraud. We also do not find any relationship between belief in voter fraud and either reported turnout in a previous election or intention to vote in an upcoming election. Part III briefly discusses survey results concerning why people support voter identification and whether voters know of the existence of restrictive photo identification laws. Although, once again, we find widespread support for such laws, we also find that a substantial share of the population does not know whether or not their state requires photo identification in order to vote. Part IV presents our conclusions, which can be stated succinctly here. Attitudes have changed and become more polarized with respect to voter ID requirements and voter fraud, but we continue to find no relationship between the existence of an ID law and greater voter confidence. This lack of a relationship may be due to the fact that such laws are unevenly enforced or are not salient to a large group of voters. It could also be due, we suspect, to the fact that attitudes about voter fraud have less to do with the precise electoral legal regime in place and its success or failure and more to do with attitudes toward the political system as a whole. In this respect, attitudes about voter fraud are like other measures of political alienation or lack of trust in government: they piggyback onto larger concerns about government competence and specific opinions about the incumbents currently in control.

### **I. The Changing Partisan Structure of Support for Voter Identification Laws**

We begin our empirical investigation by reviewing support for voter ID laws and the degree to which that support has become associated with partisanship. Recent survey data suggest partisan identity is a powerful variable in predicting attitudes toward voting in general. Democrats are more likely than Republicans, for example, to consider voting to be a right rather than a privilege. Moreover, when forced to choose, Democrats are more likely to say it is more important to make voting easy, rather than more secure.<sup>13</sup>

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13. These claims are based on analysis of the MIT module to the 2013 Cooperative Congressional Election Study (CCES). The data from the 2013 MIT module is available for download from the Harvard Dataverse at the following URL: <http://dx.doi.org/10.7910/DVN/AHHNTP>. Respondents were asked to place themselves on a scale (0-

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Because most new voting restrictions, such as ID laws, have been passed by Republican-controlled legislatures,<sup>14</sup> we should not be surprised to find that when such policy debates become salient and well known, Republican and Democratic respondents will favor positions consistent with party elites.

The partisan division on voter identification laws, though it has always been present, has grown in recent years. In a review of support for photo voter ID laws, Gronke et al. examined all publicly available public opinion data about support for strict (i.e., photo) voter ID laws since the mid-2000s.<sup>15</sup> They found that when questions were asked about the matter in 2006, a vast majority of Americans (over 80%) agreed that one should be required to produce a photo ID in order to vote.<sup>16</sup> Even then, there was a party divide with about 90% of Republicans and 70% of Democrats favoring strict ID laws. This state of affairs continued into 2008 without much change. However, between 2008 and 2012, public opinion shifted significantly. By 2012, overall support for strict ID laws had fallen slightly, to approximately 75%, but more importantly, the gap between Democrats and Republicans had doubled, from approximately 17 percentage points to over 35 percentage points.<sup>17</sup>

We expand on those earlier studies with data on attitudes about photo voter ID laws taken from the Survey of the Performance of American Elections (SPAEE), administered in 2008, 2012, and 2014, and the common content from the 2008 Cooperative Congressional Election Study (CCES). The SPAEE is administered to 200 registered voters in each state, meaning that we have both a large number of respondents overall (10,000 in 2008 and 10,200 in 2012 and 2014, when Washington, D.C. was added to the study) and a relatively

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100) that described how they would balance the following considerations: (1) It is important to make voting as easy as possible even if voting is not easy/it is important to make voting as secure as possible, even if there are some security risks (MIT408A, B) and (2) Voting is a right/voting is a privilege (MIT410A, B). Respondents were randomly assigned different anchoring points on the scale. (For instance, half the respondents had “voting is a right” set to 100 points while the other half had “voting is a privilege” set to 100 points.) If we label the two scales so that 100 is assigned to “voting should be easy” and “voting is a right,” then the average Democratic responses were 43.4 and 69.6, respectively, while the average Republican responses were 26.1 and 52.6. These differences, measured by a *t*-test, were significant at the  $p < .0005$  level in each case.

14. See William D. Hicks et al., *A Principle or a Strategy?: Voter Identification Laws and Partisan Competition in the American States*, 68 POL. RES. Q. 18, 19-20 (2015); Seth C. McKee, *Politics Is Local: State Legislator Voting on Restrictive Voter Identification Legislation*, RES. & POL., July-Sept. 2015, at 1, 3, 5; Ari Berman, *The GOP War on Voting*, ROLLING STONE (Aug. 30, 2011), <http://rol.st/OXmTRa>.

15. Paul Gronke et al., *Voter ID Laws: A View from the Public* 5, 22 fig.1 (Mass. Inst. of Tech., Pol. Sci. Dep’t, Research Paper No. 2015-13), <http://ssrn.com/abstract=2594290>.

16. *Id.* at 22 fig.1.

17. *Id.* at 22 fig.1b.

large and constant number of respondents from each state.<sup>18</sup> The latter feature comes in handy when we assess the effects of state-specific identification laws on attitudes about strict photo ID requirements. The CCES is a much larger national survey,<sup>19</sup> administered in the same fashion as the SPAE, except it is organized around a national sample, rather than fifty-one separate state samples.<sup>20</sup>

In each of these surveys, respondents were asked whether they supported the requirement that all voters show photo ID at the polling place. Consistent with the overall pattern reported by Gronke et al., support has generally been high in each of the surveys examined here. In 2008, support for strict photo ID was 70.7% in the CCES and 76% in the SPAE.<sup>21</sup> Overall support fell to 71.0% in the 2012 SPAE and 70.4% in 2014.<sup>22</sup>

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18. All of the data and documentation related to the various releases of the SPAE are available for download from the Harvard Dataverse at *Survey of the Performance of American Elections Dataverse*, HARV. DATAVERSE, <https://dataverse.harvard.edu/dataverse/SPAE> (last visited June 6, 2016). Throughout this Article, questions that appear in the survey are referenced by the year of the survey and the question number. For instance, “2008 SPAE, Q36” refers to Question 36 of the 2008 SPAE survey.
  19. The 2008 CCES common content had 32,800 respondents. STEPHEN ANSOLABEHRE, GUIDE TO THE 2008 COOPERATIVE CONGRESSIONAL ELECTION SURVEY 4 (July 15, 2011), <http://cces.gov.harvard.edu> [hereinafter 2008 CCES].
  20. We use a combination of the CCES and SPAE because neither study had both critical variables we rely on—a measure of support for photo ID laws and a measure of the degree one follows government and public affairs—in each year.
  21. 2008 CCES, *supra* note 19, at 72; R. MICHAEL ALVAREZ ET AL., 2008 SURVEY OF THE PERFORMANCE OF AMERICAN ELECTIONS: FINAL REPORT 50, 174 [hereinafter 2008 SPAE]. One difference between the SPAE and the CCES is that the former is a sample of *registered voters*, whereas the latter is based on a sample of *adults*. Compare 2008 SPAE, *supra*, at i, with *Sample Design*, COOPERATIVE CONG. ELECTION STUDY, <http://projects.iq.harvard.edu/cces/book/sample-design> (last visited June 6, 2016). To make the analysis comparable between the two surveys, in this Article we restrict ourselves to self-reported registered voters in the CCES.
  22. CHARLES STEWART III, 2012 SURVEY OF THE PERFORMANCE OF AMERICAN ELECTIONS: FINAL REPORT 48, 58 tbl.IV-5 (2013) [hereinafter 2012 SPAE]; CHARLES STEWART III, 2014 SURVEY OF THE PERFORMANCE OF AMERICAN ELECTIONS: FINAL REPORT, at Q42f (2015) [hereinafter 2014 SPAE]. In 2008, the SPAE asked respondents the following question: “Do you support or oppose any of the following proposals for new ways of voting or conducting elections?” 2008 SPAE, *supra* note 21, at 135 Q43. One of the proposals was “Require all people to show government issued photo identification when they vote.” *Id.* at 174. The response categories were “Support” and “Oppose.” *Id.* In 2012 and 2014 respondents were presented with the following introduction to the battery of questions about reform proposals: “Do you support or oppose any of the following proposals for new ways of voting or conducting elections?” 2012 SPAE, *supra*, at 159; 2014 SPAE, *supra*, at Q42f. One of the proposals was “Require all people to show government issued photo ID when they vote.” 2012 SPAE, *supra*, at 159; 2014 SPAE, *supra*, at Q42f. The response categories were “Support strongly,” “Support somewhat,” “Oppose somewhat,” and “Oppose strongly.” 2012 SPAE, *supra*, at 159; 2014 SPAE, *supra*, at Q42f. The statistics reported here for 2012 and 2014 combine the “Support strongly” and “Support somewhat” answers into a single “Support” response

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Most telling, however, has been the change among partisans. In 2008, close on the heels of the decision in *Crawford v. Marion County Election Board*,<sup>23</sup> majorities of Democrats and Republicans favored photo ID requirements: in the SPAE, support levels were 65% for Democrats and 90% for Republicans; in the CCES, support levels were 59.7% and 86.9%, respectively.<sup>24</sup> Since then, support among Democrats has fallen, while support among Republicans has held firm. In 2012, Democratic support for photo ID laws had fallen to 54.4%; by 2014 it had fallen even further, to 51.8%.<sup>25</sup> Republican support measured 88.4% in 2012 and 91.2% in 2014.<sup>26</sup> In the end, these differences in support among Republicans and Democrats in the three SPAE studies grew from 25.0 percentage points in 2008 to 39.4 percentage points in 2014.

As we discussed earlier, the public opinion literature that focuses on the cue taking of partisans finds that not everyone is equally susceptible to receiving and internalizing partisan cues. In particular, partisans who do not stay current on political issues—such as those who were socialized into one of the parties as a child based on parental influences, but who later avoided political news and activities—will be slow to change their opinions to align with changing party orthodoxy. Conversely, a partisan who is obsessed with following the political news but had previously held a position out of step with the growing elite consensus will be in a good position to learn about the positions that party leaders take on them and to adapt accordingly. If this pattern applies to the issue of photo identification, then the most politically informed partisans of both parties should be the ones moving the fastest to align themselves with party leaders on the photo ID issue. Certainly, because of ceiling effects, highly informed Republicans have less room to move toward elite party orthodoxy than highly informed Democrats.

We can measure attention to the news and public affairs using a question that was asked on the 2008 CCES and the 2012 and 2014 SPAE: “Some people seem to follow what’s going on in government and public affairs most of the

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and the “Oppose strongly” and “Oppose somewhat” answers into a single “Oppose” response.

Here and in other parts of this Article, where nationwide statistics are reported, we rely on survey weights that adjust respondents depending on the size of the state where the respondent lives. Thus, for instance, although we have 200 respondents from both California and Wyoming, California respondents are up-weighted relative to Wyoming respondents to produce an estimate of the proportion of nationwide voters who favor photo identification laws.

23. 553 U.S. 181 (2008).

24. 2008 SPAE, *supra* note 21, at 55. Data and codebooks for CCES calculations are available at <http://cces.gov.harvard.edu>.

25. 2012 SPAE, *supra* note 22, at 59 tbl. IV-5.

26. 2012 SPAE, *supra* note 22, at 59 tbl. IV-5. Throughout this period, support among independents has remained relatively flat, going from 76.5% in 2008, to 74.4% in 2012, to 74.8% in 2014. 2012 SPAE, *supra* note 22, at 59 tbl. IV-5.

time, whether there’s an election going on or not. Others aren’t that interested. Would you say you follow what’s going on in government and public affairs...?”<sup>27</sup>

Available responses included “Most of the time” (62.2% in 2014), “Some of the time” (23.2%), “Only now and then” (9.1%), and “Hardly at all” (3.9%).<sup>28</sup> (Another 1.5% responded that they “Don’t know.”) Because roughly half the respondents answer the first category, “Most of the time,” we treat these respondents as constituting the high-information group and all others as belonging to the low-information group.

In Table 1, we report the fraction of partisans who stated that they supported photo voter ID laws, broken down by information level. These results confirm the partisan cue-taking theory in recent years. By 2008, the gap in support for the photo voter ID “party positions” on the issue had already emerged: 94.1% of high-information Republicans supported photo ID laws, compared to only 57.8% of high-information Democrats, for a difference of 36.3 percentage points. On the other hand, because low-information Democrats supported strict ID laws at a much higher level than their high-information copartisans, the gap in support between low-information Republicans and Democrats was a much smaller 8.0 points.

**Table 1**  
Support for Photo Voter ID Laws, by Party and Interest in Public Affairs

Year	All		Democrats		Republicans		Republicans – Democrats Difference	
	High Info	Low Info	High Info	Low Info	High Info	Low Info	High Info	Low Info
2008	77.2% (16,013)	85.0% (8014)	57.8% (5100)	81.9% (3048)	94.1% (6204)	89.9% (2304)	36.3	8.0
2012	66.9% (6034)	76.4% (4152)	37.0% (2091)	72.7% (1710)	91.5% (1973)	83.1% (1059)	54.5	10.4
2014	68.5% (6341)	75.2% (3835)	39.3% (2069)	67.2% (1434)	93.5% (1839)	87.3% (924)	54.2	20.1

27. In all years, this variable is named NEWSINT, except for the 2008 CCES, when it is named V244. See 2008 CCES, *supra* note 19, at 32; 2014 SPAE, *supra* note 22, at newsint.

28. 2014 SPAE, *supra* note 22, at newsint. The distribution of responses was very similar in all the other years. See 2008 CCES, *supra* note 19, at 32.

The heightened partisanship of the photo ID issue after the 2010 election is evident in the public opinion shifts among the different groups of partisans. Between 2008 and 2012, support for photo ID laws dropped significantly among high-information Democrats (from 57.8% to 37.0%) and somewhat less among low-information Democrats (from 81.9% to 72.7%); support among Republicans sagged a little bit but overall held firm. As a consequence, the gap in support for strict ID laws among high-information partisans grew significantly, from 36.3 points in 2008 to 54.5 points in 2012. Two years later, the gap was virtually unchanged.

Consistent with the expectation that it would take longer for low-information partisans to alter their opinions about strict voter IDs, the gap between low-information Republicans and Democrats was virtually unchanged between 2008 and 2012 (8.0 percentage points in 2008 vs. 10.4 points in 2012). However, just two years later, the gap had doubled to 20.1 percentage points.

It is natural to ask whether the growing partisan gap in opinion about strict ID laws is more accurately attributed to confounding factors that may be influencing opinion on the issue, such as ideology, race, and beliefs about voter fraud. To confirm that the cue-taking theory is operating in the realm of photo identification policy despite the presence of potentially confounding factors, we conducted a multiple regression analysis to predict support for strict photo ID laws using data from the 2014 SPAE. The dependent variable was a dummy variable equal to one if the respondent was in favor of requiring photo identification in order to vote and zero otherwise. The independent variables included measures of partisanship, beliefs about the frequency of voter impersonation, ideology, and race. We conducted the analysis separately for high- and low-information respondents as described above. We describe the remaining details of this multiple regression analysis in Appendix A.

To summarize the analysis in Appendix A, once we control for beliefs about voter impersonation, ideology, and race, there was still an 18-percentage-point difference in support for photo ID laws among high-information partisans in 2014.<sup>29</sup> Among low-information partisans, the gap (after controls) was only 12 percentage points.<sup>30</sup> The reduction in the influence of partisanship *per se* on attitudes about photo voter ID laws in the multiple regression analysis comes primarily from the fact that ideology, which of course is highly correlated with partisanship, is also highly correlated with attitudes about ID laws. This is true for both high- and low-information respondents, but the influence of ideology is much greater for the high-information group.

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29. Recall that before the controls were entered, this gap was 54.2 points. *See supra* Table 1.

30. Recall that before the controls were entered, this gap was 20.1 points. *See id.*

The multiple regression analysis suggests that cue taking acts through two paths to reinforce partisan attitudes about voter ID among the mass public. The *direct path*, which is measured by the “party” coefficient in the multiple regression analysis, reflects opinions about how photo ID laws influence the fortunes of the party; such laws are perceived to help Republican fortunes and hurt Democratic fortunes, and partisans react accordingly. The *indirect path* moves through other attitudes that are correlated with partisanship, such as ideology and attitudes about fraud, which have also shifted as a consequence of the heightened awareness that strict voter ID laws are now a political, not a valence, issue.

## II. Beliefs About the Prevalence of Voter Fraud

Beliefs about voter fraud have been at the center of justifications for the passage of voter ID laws. If it is true that “[v]oter fraud drives honest citizens out of the democratic process and breeds distrust of our government,”<sup>31</sup> and that the presence of strict voter ID laws instills a greater sense of citizen trust and confidence in our government, then the growth in the number of voter ID laws over the past decade should have decreased the public’s belief that fraud is prevalent in elections and increased citizen trust and confidence in government. The public opinion evidence is contrary to this expectation and, once again, consistent with the pattern of opinion we would expect from this becoming an issue polarized by partisanship.

In the years since the publication of the 2008 Ansolabehere and Persily article,<sup>32</sup> the SPAE has continued to probe attitudes about voter fraud among registered voters. In 2008, borrowing question wording from the Ansolabehere and Persily article, SPAE respondents were asked the following three questions:

- It is illegal to vote more than once in an election or to vote if not a U.S. citizen. How frequently do you think this occurs in your community? [voter fraud]
- Another form of fraud occurs when votes are stolen or tampered with. How frequently do you think this occurs in your community? [vote theft]
- It is illegal for a person to claim to be another person, who is registered to vote, and to cast that person’s vote. How often do you think this occurs in your community? [voter impersonation]<sup>33</sup>

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31. *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam).

32. Ansolabehere & Persily, *supra* note 1.

33. 2008 SPAE, *supra* note 21, at 171-72.

The response categories in each case were (1) It is very common, (2) It occurs occasionally, (3) It occurs infrequently, (4) It almost never occurs, and (5) Not sure.

Beginning in 2012, the SPAE changed its strategy somewhat in asking about fraud. Instead of a series of separate questions, respondents were presented with a grid of illegal activities associated with elections. The grid was preceded with the following prompt: “The following is a list of activities that are usually against the law. Please indicate how often you think these activities occur in your county or city.”<sup>34</sup> Six activities were then presented to the respondent:

- People voting more than once in an election<sup>35</sup>
- People stealing or tampering with ballots that have been voted
- People pretending to be someone else when going to vote
- People voting who are not U.S. citizens
- People voting an absentee ballot intended for another person
- Officials changing the reported vote count in a way that is not a true reflection of the ballots that were actually counted<sup>36</sup>

The response categories were the following: (1) It is very common, (2) It occurs occasionally, (3) It occurs infrequently, (4) It almost never occurs, and (5) I’m not sure.<sup>37</sup>

Table 2 reports the distribution of responses to these questions. What is striking about these results is the stability of aggregate responses over this period.<sup>38</sup> It is also the case that the high degree of correlation *across* fraud items that was noted in the Ansolabehere and Persily article has continued to the

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34. 2012 SPAE, *supra* note 22, at 154 (emphasis omitted).

35. Note that the SPAE had previously combined into one question the topics of multiple voting *and* noncitizen voting. 2008 SPAE, *supra* note 21, at 171. From 2012 onward, beliefs about these two topics have been assessed separately. 2012 SPAE, *supra* note 22, at 154; 2014 SPAE, *supra* note 22, at Q37a, Q37d.

36. 2012 SPAE, *supra* note 22, at 154; 2014 SPAE, *supra* note 22, at Q37a-f.

37. 2012 SPAE, *supra* note 22, at 154; 2014 SPAE, *supra* note 22, at Q37a-f.

38. The responses to the questions asked in the SPAE have been consistent over time, but they are not entirely consistent with the results associated with the 2007 CCES survey, which formed part of the empirical grounding for the Ansolabehere and Persily article; Ansolabehere and Persily, *supra* note 1, at 1745 n.25, previously noted that the question wording in 2007 “may have primed respondents to express their concerns about voter fraud more generally,” rather than to express their opinions about the specific form of fraud. As a consequence, the 2008 questions, and those that followed, replaced “such vote fraud” with “this,” or “these activities” to make it clear that the question was about specific forms of fraud, not fraud in general. *See* 2008 SPAE, *supra* note 21, at 171-72; 2012 SPAE, *supra* note 22, at 154; 2014 SPAE, *supra* note 22, at Q37a-f. The 2007 CCES results are so different from the ones that follow that it suggests Ansolabehere and Persily’s conjecture was correct. Therefore, we focus here on responses to a set of questions that were subsequently developed to prompt opinions about specific forms of voter fraud.

present.<sup>39</sup> Among those expressing an opinion about the prevalence of fraud, the average intercorrelation of the fraud items was .74 in the 2008 SPAE, .74 in 2012, and .71 in 2014.

**Table 2**  
Distribution of Voter Fraud Responses, 2008-2014<sup>40</sup>

a. Voter fraud (voting more than once <i>and</i> noncitizens voting)						
Year	Very Common	Occasionally	Infrequently	Almost Never	Not Sure	N
2008	9%	19%	17%	31%	24%	9987

  

b. Voting more than once in an election						
Year	Very Common	Occasionally	Infrequently	Almost Never	Not Sure	N
2012	11%	15%	16%	36%	21%	10,191
2014	8%	15%	16%	40%	22%	10,164

  

c. Noncitizens voting						
Year	Very Common	Occasionally	Infrequently	Almost Never	Not Sure	N
2012	18%	16%	14%	31%	21%	10,191
2014	13%	17%	14%	33%	23%	10,160

  

d. Voter impersonation						
Year	Very Common	Occasionally	Infrequently	Almost Never	Not Sure	N
2008	5%	15%	16%	35%	28%	9954
2012	12%	18%	17%	32%	22%	10,193
2014	8%	16%	15%	38%	23%	10,158

39. See Ansolabehere & Persily, *supra* note 1, at 1749.

40. 2014 SPAE, *supra* note 22, at Q37a-f.

*Revisiting Public Opinion on Voter Identification and Voter Fraud*  
68 STAN. L. REV. 1455 (2016)

e. Vote theft

Year	Very Common	Occasionally	Infrequently	Almost Never	Not Sure	N
2008	6%	16%	15%	37%	26%	9986
2012	9%	17%	19%	33%	23%	10,190
2014	7%	14%	16%	40%	24%	10,158

f. Absentee ballot fraud

Year	Very Common	Occasionally	Infrequently	Almost Never	Not Sure	N
2012	12%	20%	18%	24%	25%	10,190
2014	9%	19%	17%	28%	27%	10,162

g. Officials changing results illegally

Year	Very Common	Occasionally	Infrequently	Almost Never	Not Sure	N
2012	9%	15%	18%	33%	25%	10,192
2014	7%	14%	16%	38%	26%	10,161

We believe that this high intercorrelation of beliefs about election fraud has serious implications for understanding how the mass public processes the debate about topics such as strict voter IDs. This high intercorrelation suggests that beliefs about fraud derive from a single underlying attitude about the fairness of elections and, quite likely, about generalized trust in government itself. In other words, despite the fact that the legal- and election-administration communities make fine distinctions between the sources of election fraud, survey respondents who see one type of fraud as prevalent tend to see other types of fraud as prevalent as well.

A traditional way that social scientists measure the degree to which answers to a battery of survey questions may be caused by a single underlying attitude is through factor analysis, which quantifies the degree to which answers to the battery of questions are correlated with the hypothesized unmeasured underlying (or “latent”) attitude.<sup>41</sup> When we conduct a principal

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41. See generally JAE-ON KIM & CHARLES W. MUELLER, *FACTOR ANALYSIS: STATISTICAL METHODS AND PRACTICAL ISSUES* (1978).

components factor analysis on the battery of fraud questions in the 2014 SPAE, we find strong support for the hypothesis that answers to the full battery of questions are primarily tapping into attitudes about election fraud in general. This hypothesized single dimension explains 76% of the variance in the answers to the fraud battery in 2014 (among those who expressed an opinion), and no other dimension explains more than an additional 10% of the variance.

A. Beliefs About the Prevalence of Voter Impersonation

The type of fraud most appropriately targeted by photo voter ID laws is voter impersonation, namely, the situation when voters attempt to vote under another person’s name.<sup>42</sup> Voter identification laws usually address voter impersonation by requiring voters who vote in a polling place to present certain forms of identification to verify their identity. Here, we delve more deeply into partisan polarization over attitudes about voter impersonation fraud in recent years.

As reported in Table 2d, since 2008, there has been little net movement in overall attitudes about the frequency of voter impersonation at the national level. Table 3a allows us to explore attitudes about impersonation fraud by party, in this case, by combining SPAE respondents who reported that they believed impersonation fraud was either “Very common” or occurred “Occasionally.” (To aid in discussion, we will term those who believe that voter impersonation fraud is either very common or occurs occasionally as believing that voter impersonation fraud occurs “frequently.”)

**Table 3**  
Belief in Frequency of Voter Impersonation, 2008-2014<sup>43</sup>

a. By party: percentages reporting “Very common” or “Occasionally”			
Year	Democrats	Republicans	Republicans–Democrats
2008	13.4	29.5	16.1
2012	16.0	42.2	26.2
2014	12.6	28.4	15.9

42. See *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 225 (2008) (Souter, J., dissenting) (“[R]equiring a voter to show photo identification before casting a regular ballot addresses only one form of voter fraud: in-person voter impersonation.”).

43. 2014 SPAE, *supra* note 22, at Q37c.

*Revisiting Public Opinion on Voter Identification and Voter Fraud*  
68 STAN. L. REV. 1455 (2016)

b. Difference among high- and low-information partisans

Year	Democrats		Republicans		Republicans–Democrats Difference	
	High Info	Low Info	High Info	Low Info	High Info	Low Info
2012	12.6	19.6	47.3	34.4	34.7	14.8
2014	10.2	18.2	32.6	30.3	22.4	12.1

c. Difference among partisans by strictness of photo ID regime

Year	Democrats		Republicans		Republicans–Democrats Difference	
	Strict Photo	HAVA Minimum	Strict Photo	HAVA Minimum	Strict Photo	HAVA Minimum
2008	11.6	14.1	25.1	30.6	13.5	16.5
2012	17.1	15.5	33.7	44.0	16.6	28.5
2014	13.5	13.2	30.3	34.7	16.8	21.5

Republicans have been much more likely than Democrats to believe that voter impersonation occurs frequently. The Republican-Democratic difference was about 16 percentage points in 2008 and 2014 and 26 points in 2012. Whether the 2012 surge in Republicans believing voter impersonation fraud was frequent is due to the particular circumstances of the 2012 election or just a result of random variation, the existence of a persistent difference across the two parties seems clear.<sup>44</sup>

44. Whether this surge in the partisan gap that we see in 2012 over whether voter fraud occurs frequently, as compared to 2008 and 2014, is a statistical anomaly or was due to priming associated with the specific circumstances associated with the 2012 presidential election is difficult to tell. We know from a series of questions included in the 2012 MIT/Reed College module of the CCES that a large minority of Republican voters reported that they believed the outcome of the 2012 presidential election was the result of election irregularities. For instance, respondents were asked the following question intended to probe whether they regarded the 2012 presidential election to have been fairly decided: “Taking everything into account concerning the 2012 presidential election, indicate which statement most closely describes how you believe the outcome was decided.” Three options were given to respondents. The first, most benign option was “Votes were counted accurately nationwide. The man who actually received the most votes was elected president in a fair election,” to which 79.1% of Democrats but only 40.4% of Republicans agreed. The third, least benign option was

*footnote continued on next page*

In Table 3b we examine whether the gap in the perception of the frequency of impersonation fraud has been the same for high- and low-information partisans. It has not. In both 2012 and 2014, the gap between high-information Republicans and high-information Democrats was much greater than the difference between low-information partisans. In 2012, for instance, 12.6% of high-information Democrats believed voter impersonation was frequent, compared to 47.3% of high-information Republicans, for a 34.7 point gap. In contrast, 19.6% of low-information Democrats and 34.4% of low-information Republicans believed voter impersonation was frequent, a smaller 14.8 point gap. (Unfortunately, the 2008 SPAE did not include the “news interest” question, and therefore it is not possible to test whether the relative gap between high- and low-information partisans was as great in 2008.)

Finally, in Table 3c we explore whether living in a state that had adopted a strict photo ID law influenced attitudes about voter impersonation fraud.<sup>45</sup> The most direct comparison is between respondents living in states that had adopted strict photo ID laws and those that had maintained “HAVA minimum” laws, i.e., laws that only required documentary identification under the conditions specified in the Help America Vote Act (HAVA) for first-time voters who had registered by mail.<sup>46</sup> In 2008, there were only two states in the “strict photo ID” category, Georgia and Indiana.<sup>47</sup> In 2012 that number had grown to four (adding Kansas and Tennessee);<sup>48</sup> in 2014, three more states had become strict photo ID states (adding Mississippi, Texas, and Virginia).<sup>49</sup> Conversely, there were 24 states (including the District of Columbia) that had HAVA-minimum laws in 2008, dropping to 19 in 2014.<sup>50</sup>

The results in Table 3c suggest that if there has been an effect of enacting strict photo ID laws, it has been subtle. Among Democrats and Republicans, for

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“There was a lot of fraud in counting the votes after the election. Because of that, the man who actually received the most votes nationwide was denied the presidency,” to which only 2.1% of Democrats, but fully 31.6% of Republicans agreed. If less than half of Republicans expressed an opinion that President Obama was elected president in 2012 fairly, and nearly one-third stated the election was stolen from the rightful winner, it may not be surprising that there was a surge among Republicans who believed that voter impersonation was common in 2012, compared to both 2008 and 2014.

45. States are coded in Table 3c according to the photo ID regime that was in place in their state as of the year of the study.

46. Help America Vote Act of 2002, 52 U.S.C. § 21083(b)(2)(A) (2014).

47. The coding of states by strictness of voter ID laws was based on information contained in the Voter ID History website maintained by the National Conference of State Legislatures. *Voter ID History*, NAT'L CONF. ST. LEGISLATURES, <http://www.ncsl.org/research/elections-and-campaigns/voter-id-history.aspx> (last visited June 6, 2016) [hereinafter *NCSL Voter ID History Website*].

48. *Id.*

49. *Id.*

50. *Id.*

both those in strict photo ID states and those in HAVA-minimum states, the fraction believing that voter impersonation was frequent increased between 2008 and 2012, before falling back in 2014. In the end, the difference between partisans in strict photo ID states and HAVA minimum states was slightly greater in 2014 than in 2008, but again, the overall movement has been relatively small.<sup>51</sup>

As with attitudes about voter ID, it is important to check to see whether different attitudes about impersonation fraud across states with and without strict photo ID hold up in the face of controls for factors such as ideology and race. We do this through a multivariate analysis that is described more fully in Appendix B below.

To summarize the analysis in Appendix B, in 2014 there was a 9.3 percentage point difference in the degree to which Democrats and Republicans nationwide believed that voter impersonation was frequent, after controlling for voter ID regime, ideology, and race. This is only somewhat less than the 15.9 percentage point difference reported in Table 3a before statistical controls are applied. When we perform separate analyses among respondents who lived in strict photo ID states in 2014 and compare the results to respondents who lived in HAVA-minimum states, we see a similar gap between Democrats and Republicans of almost exactly ten percentage points in each case.

In summary, there is no evidence that the passage of strict photo ID laws has led to a decrease in the belief of the frequency of voter impersonation. Overall beliefs have remained stable, as has the gap between Republicans and Democrats.

#### B. Perceptions of Fraud and the Likelihood of Voting

Both *Purcell v. Gonzalez* and *Crawford v. Marion County* asserted that perceptions of voter fraud depress turnout.<sup>52</sup> Previously, Ansolabehere and Persily showed that there was little correlation between fraud perceptions and reported turnout in the 2008 presidential primaries or in the 2008 general election.<sup>53</sup> This conclusion was reached based on a number of turnout measures, including both validated and reported vote in 2006 and a measure of

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51. Of course, without a panel study on the matter, we are not in a position to conclude whether these changes are due to changes in attitudes among voters in the various states or just simply a result of the changing composition of states with different types of laws. Two states—Kansas and Mississippi—went from being a HAVA minimum state to a strict photo ID state during this time. *Id.* In these two states, identifiers of both parties were virtually unchanged in believing that voter impersonation was frequent. From 2008 to 2014, the percentage of Democrats who believed that voter impersonation was frequent went from 8.2% to 7.6%, compared to the Republican percentages, which went from 19.8% to 21.0%.

52. *See supra* note 2.

53. Ansolabehere & Persily, *supra* note 1, at 1753-54.

the intent to vote in the 2008 presidential election. We confirm those findings with data from a new survey we commissioned from YouGov in December 2015.<sup>54</sup>

We find, first, that in a simple bivariate test, the previous Ansolabehere and Persily findings hold: not only is the correlation between beliefs in the frequency of voter fraud and self-reported turnout nearly zero, the sign of the relationship is negative.<sup>55</sup> Notice that reported vote in 2014 and intention to vote in 2016 is *highest* among those who think fraud is “very common”: 70.2% in that category say they voted in 2014 and 76.7% say they will vote in 2016. This is higher than respondents in each other category and is, respectively, about 17 percentage points and 16 percentage points higher than the average. The lowest turnout group is comprised by those who are not sure about the frequency of voter fraud: their turnout rates are less than half of the average.

Second, we tested this relationship through a multivariate probit analysis that was identical to that conducted by Ansolabehere and Persily.<sup>56</sup> We tested for each of these effects directly, and for the possibility that the two factors interact. That is, it may be the case that people who believe fraud is common might be particularly unlikely to vote in states that lack a photo ID law, because the photo ID law provides protection against such fraud. We performed a test for the statistical significance of these factors, controlling for age, gender, education, income, employment status, race, and party identification. These demographic factors are commonly found to predict past participation and intentions to vote in the future.<sup>57</sup> We examined how well these factors explain self-reported votes in the 2014 midterm election and intent to vote in the 2016 general election.

The results of the multivariate analysis are reported in Table 4b. In that analysis, the standard demographic factors are highly significant in predicting turnout, especially age, income, partisanship, and employment status. Beliefs about the frequency of voter fraud and the presence of a state photo ID law had no explanatory power. The coefficient on beliefs is 0.004 ( $p$ -value = .953). Substantively, this is trivially small, and statistically insignificant. The same is true for beliefs in explaining intent to vote in 2016, in which the coefficient is 0.076 ( $p$ -value = .338). The coefficient on whether a state has photo ID is somewhat larger, both for 2014 and 2016, but in both instances is statistically

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54. See *infra* Table 4a.

55. The dataset containing these survey results are available from the Authors upon request.

56. See Ansolabehere & Persily, *supra* note 1, at 1770, 1772.

57. See generally JAN E. LEIGHLEY & JONATHAN NAGLER, WHO VOTES NOW?: DEMOGRAPHICS, ISSUES, INEQUALITY, AND TURNOUT IN THE UNITED STATES (2014); RAYMOND E. WOLFINGER & STEVEN J. ROSENSTONE, WHO VOTES? (1980).

indistinguishable from zero.<sup>58</sup> And, the interaction effects are substantively small and statistically insignificant.<sup>59</sup> The most recently available data, then, display no evidence that either beliefs about the frequency of voter fraud or photo ID laws designed to combat voter fraud have any relationship to or effect on turnout or intentions to vote.

**Table 4a**  
Turnout and Beliefs About Fraud, 2015

Frequency of Voter Impersonation	Voted in 2014		Intends to Vote in 2016	
	%	N	%	N
Very common	70.2%	184	76.7%	184
Occasionally	55.2%	320	62.0%	320
Infrequently	53.9%	140	65.6%	140
Never	61.8%	183	70.4%	183
Not sure	24.4%	173	28.7%	173
Total	53.6%	1000	61.0%	1000
Correlation b/t vote & belief	-0.05	865	-0.02	865
Correlation b/t vote & not sure	-.27	1000	-.30	1000

58. The *p*-value of the photo ID coefficient in 2014 is 0.222 and 0.499 for 2016 vote intention. See *infra* Table 4b.

59. The *p*-value of the 2014 and 2016 interaction terms are 0.189 and 0.229, respectively. See *id.*

**Table 4b**  
Turnout and Beliefs in Voter Fraud (Probit Analysis)

	Did You Vote in 2014?		Do You Intend to Vote in 2016?	
	Coefficient	Standard Error	Coefficient	Standard Error
Belief in Frequency of Fraud	0.004	0.072	0.076	0.079
State Has Photo ID Requirement	0.357	0.292	0.211	0.312
Belief in Frequency of Fraud and State Has Photo ID Requirement	-0.141	0.108	-0.141	0.117
Age (years)	0.029	0.005	0.026	0.005
Gender (male)	0.153	0.117	0.285	0.127
Level of Education (1-6)	0.162	0.044	0.088	0.047
Democrat	0.529	0.131	0.775	0.142
Republican	0.379	0.150	0.609	0.161
White	0.283	0.124	0.384	0.131
Employed	0.461	0.148	0.516	0.158
Homemaker	0.091	0.215	0.120	0.223
Retired	0.347	0.215	0.454	0.231
Student	-0.118	0.294	-0.203	0.292
Income Category (1-4)	0.261	0.068	0.288	0.073
Constant	-2.619	0.357	-2.445	0.382
N	753		753	
Log-Likelihood	-336.0		-287.0	
Pseudo R-Square	.224		.234	

C. Perceptions About Fraud and Voter Confidence

Finally, there is the question whether perceptions of voter fraud influence opinions more broadly. We can explore this topic by examining the degree to which perceptions about fraud influence confidence that votes were counted as cast.

Questions about voter confidence in the vote count have appeared in public opinion surveys since the 2000 election controversy, including in the SPAE. Recently published research by Michael Sances and Charles Stewart examined answers to “voter confidence” questions since 2000.<sup>60</sup> They find two strong patterns in public confidence about counting votes. First, voter confidence follows the election returns.<sup>61</sup> Answers to questions about confidence in the electoral system are strongly correlated with electoral outcomes—when the Democratic candidate for president wins, Democratic identifiers are much more confident, and vice versa. In the years immediately after the 2000 election, Republicans tended to be more confident than Democrats that their votes were counted as cast; since 2008, Democrats have been more confident.

Second, Sances and Stewart find that voters are more confident about *their own votes* being counted as cast than they are that the *votes of others* are counted as cast.<sup>62</sup> The degree of confidence is a declining function of social distance between the survey respondent and the level at which votes are cast. Respondents are overwhelmingly confident that *their own vote* was counted as cast, less likely to believe that votes in their *own county* were counted as cast, even less likely to believe this of votes counted at the *state level*, and the least likely to express confidence in the quality of the vote count *nationwide*.

This second conclusion is illustrated in Table 5a, which reports the fraction of respondents in the 2012 SPAE who responded that they were “Very confident” their votes were counted as cast in different settings—their own vote, votes in the county, votes in the state, and votes nationwide.<sup>63</sup> Among all voters, the percent answering “Very confident” ranges from 61.1% for their own vote to 22.3% for votes nationwide. The Democratic-Republican

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60. Michael W. Sances & Charles Stewart III, *Partisanship and Confidence in the Vote Count: Evidence from U.S. National Elections Since 2000*, 40 ELECTORAL STUD. 176, 176 (2015).

61. *Id.* at 180-83.

62. *Id.* at 179.

63. Respondents who reported that they voted in the 2012 general election were asked “How confident are you that your vote in the General Election was counted as you intended?” 2012 SPAE, *supra* note 22, at 151. All respondents, regardless of whether they voted, were asked “How confident are you that votes [geographic area] were counted as voters intended,” with [geographic area] replaced with “in your county or city,” “in [state of residence],” and “nationwide.” The response categories in all cases were “Very confident,” “Somewhat confident,” “Not too confident,” and “Not at all confident.” *Id.* at 152-53.

differences in responses show a roughly 20-point difference for all levels of vote aggregation, except for votes nationwide, where the gap is only 12.2 points.<sup>64</sup>

**Table 5**  
Confidence That Votes Were Counted as Cast in 2012 General Election

a. All respondents

	All	Democrats	Republicans	Democrats–Republicans Difference
Your Vote	61.1% (9335)	75.9% (3500)	52.0% (2880)	23.9
Votes in County	48.4% (10,199)	61.3% (3808)	40.9% (3036)	20.4
Votes in State	39.3% (10,199)	51.8% (3808)	31.6% (3036)	20.2
Votes Nationwide	22.3% (10,199)	35.2% (3807)	12.3% (3036)	22.9

Percentage Answering “Very confident” (N’s in parentheses)

b. HAVA minimum states

	All	Democrats	Republicans	Democrats–Republicans Difference
Your Vote	63.7% (3870)	81.4% (1573)	48.3% (1133)	33.1
Votes in County	51.0% (4200)	67.1% (1710)	38.0% (1185)	29.1
Votes in State	42.7% (4200)	60.1% (1710)	27.5% (1185)	32.6
Votes Nationwide	22.3% (4199)	35.6% (1709)	12.2% (1185)	23.4

Percentage Answering “Very confident” (N’s in parentheses)

64. 2012 SPAE, *supra* note 22, at 151-53.

*Revisiting Public Opinion on Voter Identification and Voter Fraud*  
68 STAN. L. REV. 1455 (2016)

c. Strict photo ID states

	All	Democrats	Republicans	Democrats–Republicans Difference
Your Vote	60.8% (721)	68.3% (266)	63.4% (243)	4.9
Votes in County	48.7% (800)	53.0% (260)	54.7% (260)	-1.7
Votes in State	38.6% (800)	40.0% (292)	46.4% (260)	-6.4
Votes Nationwide	20.6% (800)	34.0% (292)	12.2% (260)	21.8

Percentage Answering “Very confident” (N’s in parentheses)

d. Non-HAVA/non-strict photo ID states

	All	Democrats	Republicans	Democrats–Republicans Difference
Your Vote	58.4% (4744)	70.3% (1661)	53.1% (1504)	17.2
Votes in County	45.6% (5199)	55.6% (1806)	40.6% (1591)	15.0
Votes in State	35.9% (5199)	43.8% (1806)	32.1% (1591)	11.7
Votes Nationwide	21.2% (5200)	34.9% (1806)	12.3% (1591)	22.6

Percentage Answering “Very confident” (N’s in parentheses)

The question for us is whether voter ID laws have had any effect in improving voter confidence beyond the “winner effect.” The answer is “no.” In addition, what evidence there is that these laws have had an effect on confidence is in keeping with the other evidence we have presented—ID laws have helped to politicize the issue of voter confidence.

The role of ID laws in helping to further politicize voter confidence is illustrated in the remaining subtables of Table 5. In these subtables, we have divided respondents according to the voter ID regime in the 2012 election. We focus here on the comparison between HAVA-minimum states and strict photo ID states. Voters in the states “in the middle” as far as the strictness of the voter ID regime in 2012 is concerned are also “in the middle” in terms of voter confidence.

First, overall, respondents from both the HAVA-minimum and strict photo ID states had similar levels of confidence at all levels of the vote count; if anything, respondents in the HAVA-minimum states were slightly *more* confident than respondents in the strict photo ID states. Second, however, Democratic and Republican respondents reported different levels of confidence, depending on the photo ID regime in 2012. (The one exception here is in assessing confidence nationwide.) Democrats in HAVA-minimum states were more confident their votes were counted as cast than Democrats in strict photo ID states.<sup>65</sup> Conversely, Republicans in strict photo ID states were more confident than Republicans in HAVA-minimum states.<sup>66</sup>

Third, the Democrat-Republican gap in confidence is greater in HAVA-minimum states than in the nation as a whole. This is caused by Democrats being a little more confident and Republicans being a little less confident than their copartisans in the rest of the country.

Fourth, the Democrat-Republican gap was much smaller—and in two cases is even negative—in strict photo ID states, for all levels of vote counting from the state level to the personal level. This is due to Democrats being much less confident and Republicans being much more confident in strict photo ID states than their copartisans nationwide.

In Appendix C below, we put these bivariate observations to a multivariate test. Consistent with Sances and Stewart,<sup>67</sup> we find that by far the most important predictor of whether a respondent believes votes were counted as cast, at all levels of government, is whether the candidate from the respondent's party won the popular vote in the respondent's state. After controlling for the "winner's effect," there is generally only a weak and nonsignificant relationship between the stringency of ID laws and a belief that votes were counted as cast. (The one exception is that the negative regression coefficient is statistically significant in the case of one's own vote being counted as cast.) Furthermore, the interaction between partisanship and the stringency of ID laws tends to be negative and statistically significant, with one exception (concerning the vote nationwide). In other words, at the level of one's own vote and the counting of votes in the voter's own county and state, Democrats are less confident as voter ID laws become more stringent.

### **III. Knowledge of Voter Identification Laws and Beliefs About Their Effects**

Thus far we have established that the passage of strict voter ID laws has not been associated with a heightened degree of confidence in election

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65. This difference is statistically significant in a *t*-test at a *p*-value of less than .0005.

66. This difference is statistically significant in a *t*-test at a *p*-value of less than .0005.

67. Sances & Stewart, *supra* note 60, at 180-83.

outcomes or a decline in the belief that voter fraud is common. Findings such as these raise questions about what voters know about their states' ID laws and what they expect them to accomplish.

The 2015 YouGov survey probed why people support photo ID laws and what effects those laws might have on the electorate. Large majorities reported believing that photo ID requirements combat election fraud (71%), prevent noncitizens from voting (67%), improve election administration (58%), and make elections fair (63%). Large majorities also felt that photo ID laws would not create barriers to voting. Only 28% felt that photo ID laws would make lines longer on Election Day; 25% felt that photo ID laws would make it harder for minorities to vote; 25% felt these laws would make it harder for poor people to vote; and 20% felt these laws would make it harder for the average person to vote. These results are reported in Table 6.

**Table 6**  
What Effect Does Photo ID Have on Elections?

	Yes	No	Don't Know/ Skipped
Combats Election Fraud	70.8%	15.5%	13.6%
Makes Lines Longer on Election Day	28.4%	48.2%	23.4%
Makes Lines Shorter on Election Day	21.2%	49.2%	29.6%
Makes It Harder for Minorities to Vote	24.5%	57.2%	18.3%
Makes It Harder for Democrats to Vote	15.4%	66.2%	18.4%
Makes It Harder for the Average Person to Vote	20.1%	65.5%	14.5%
Makes It Harder for Poor People to Vote	25.1%	59.1%	15.8%
Prevents Noncitizens from Voting	67.3%	15.7%	17.0%
Improves Election Administration	57.6%	20.1%	22.3%
Makes Elections Fair	63.2%	19.2%	17.6%

The December 2015 survey also sought to ascertain what identification people think their state's law requires in order to vote. A plurality of people (42%) thought that their state required that people show photo ID in order to vote, and a quarter of respondents thought that their state did not

require showing photo ID. Importantly, a third of respondents (34%) did not know what their state’s laws required.<sup>68</sup>

The accuracy of those beliefs can be gauged upon comparing what voters think their state’s law requires and what the state’s law actually requires. Nineteen states require no document in order to vote. In those states, 30% said that they believe that a photo ID is required to vote and 32% said that it was not. The single largest category of response was “Don’t Know,” at 38%. At the other extreme are seven states that require showing a photo ID in order to vote. In these states, 57% of respondents say that a photo ID is required; 9% say that no document is required, and a third of respondents (34%) say that they do not know what the state requires.

**Table 7**  
Knowledge of State Photo ID Requirement<sup>69</sup>

State ID requirement	Answer to the question: “Does your state require that voters show photo ID at the polls?”		
	Yes	No	Don’t Know/ Skipped
No document required	29.37%	32.13%	38.6%
ID requested; photo not required	50.8%	25.2%	24.0%
Photo ID requested	47.0%	16.2%	36.8%
Strict non-photo ID	49.8%	32.2%	18.0%
Strict photo ID	57.3%	8.9%	33.7%

Put simply, considerable confusion about ID laws exists among the American public. Roughly a third of all people are not sure what ID is required, a finding that is as true in states with no document required as it is in states where photo ID is required. In states that require photo ID in order to vote, only 57% of people know that is the law, while 43% either do not know or say that no such documentation is required. This finding that voters are unfamiliar with their states’ voter ID laws is consistent with previous research that suggested that poll workers themselves are often unsure of the laws, or at least implement voter ID laws inconsistently.<sup>70</sup>

68. See *supra* note 55.

69. For information about states’ voter ID requirements, see *NCSL Voter ID History Website*, *supra* note 47.

70. See Lonna Rae Atkeson et al., *A New Barrier to Participation: Heterogeneous Application of Voter Identification Policies*, 29 *ELECTORAL STUD.* 66, 71-72 (2010); Charles Stewart III, *Voter ID: Who Has Them? Who Shows Them?*, 66 *OKLA. L. REV.* 21, 30-32 (2013).

### **Conclusion**

The United States now has a decade's worth of experience with photo identification requirements for voting. Although the Supreme Court upheld a photo ID requirement against a facial constitutional challenge,<sup>71</sup> with each new law comes new legal challenges. For the most part, litigation over such laws has focused on how severe the burden of producing a photo ID will be and for how many potential voters. However, when the evidence of actual fraud is elusive (as it usually is) and extent of the burden inconclusive, advocates turn to the vague state interest in promoting public confidence in elections as a makeweight constitutional argument.

This Article confirms what we found when we first entered this particular fray. The public continues to support photo ID requirements, remains concerned about voter fraud, and believes that photo ID laws will combat fraud. However, when we compare states with and without such laws, we find that the presence of a photo ID requirement does not affect the public's belief in the frequency of voter fraud, nor does it promote voter turnout. Or at least, the first decade's worth of experience with such laws has not yet demonstrated that they do.

Over that same period, though, we have witnessed the politicization of opinions on voter ID. Republicans (especially more informed ones) have become slightly more supportive of such laws, while Democrats (especially more informed ones) have become more opposed. In this respect, opinion on voter ID has become much like opinions on other subjects: as elite discussion of the issue has become more salient and partisan, the mass public has taken those cues, which become reflected in public attitudes on voter ID.

Like most issues of election administration, though, the public often knows very little about the legal regime about which they have an opinion. The fact that voters in ID states and in non-ID states very frequently do not know whether their state requires ID offers one reason we should not expect such laws to promote public confidence in elections. Because instances of actual voter impersonation fraud are rare, it would be difficult for anyone to observe the impact of such laws on fraud prosecutions. (At least in theory, photo ID laws, like newly enacted criminal laws that lead to new types of prosecutions, might lead people to observe greater rates of legal violations.) Attitudes about voter fraud, as the data presented here suggest, have deeper ideological or political roots, which remain unaffected by a state's election law regime. Low levels of knowledge about existing voter ID laws or even the frequency of fraud, therefore, do not affect these deeply held beliefs that feed into voter perceptions of fraud.

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71. *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 188-89 (2008).

We return, then, to the admonition we made eight years ago: that the litigation over voter ID should focus on actual fraud and actual burdens on voting. Relying on public perceptions in any constitutional setting seems fraught with dangers<sup>72</sup>—no one would suggest that public perception of a potentially nonexistent threat would justify relaxing constitutional speech, religion, or criminal rights, for example. The same should be true with voting. Because public attitudes on voter fraud are unaffected by the stringency of a voter ID law, such laws cannot be justified on that basis.

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72. See Nathaniel Persily & Kelli Lammie, *Perceptions of Corruption and Campaign Finance: When Public Opinion Determines Constitutional Law*, 153 U. PA. L. REV. 119, 122 (2004) (discouraging reliance on public opinion in campaign finance jurisprudence); see also Stephen Ansolabehere & Nathaniel Persily, *Testing Shaw v. Reno: Do Majority-Minority Districts Cause Expressive Harms?*, 90 N.Y.U. L. REV. 1041, 1042 (2015) (rejecting public opinion basis for concerns about effects of majority-minority districts on racial attitudes).

**Appendix A**

**Multivariate Linear Regression Analysis of Support for Photo ID Laws**

**Table A1**

Support for Requiring Photo ID in Order to Vote, Data from SPAE 2014

Independent Variables	All Coeff. (s.e.)	High-information Coeff. (s.e.)	Low-information Coeff. (s.e.)
High Information	-0.046 (0.009)	—	—
Democrat	-0.166 (0.013)	-0.184 (0.017)	-0.120 (0.021)
Impersonation fraud*			
Occasionally	-0.059 (0.018)	-0.057 (0.021)	-0.054 (0.031)
Infrequently	-0.110 (0.018)	-0.123 (0.022)	-0.093 (0.031)
Almost Never	-0.300 (0.016)	-0.291 (0.019)	-0.272 (0.029)
Not Sure	-0.084 (0.017)	-0.078 (0.021)	-0.082 (0.029)
Ideology*			
Liberal	0.083 (0.017)	0.075 (0.019)	0.031 (0.034)
Moderate	0.265 (0.016)	0.315 (0.018)	0.139 (0.032)
Conservative	0.351 (0.018)	0.441 (0.021)	0.157 (0.035)
Very Conservative	0.376 (0.021)	0.452 (0.023)	0.184 (0.041)
Not Sure	0.274 (0.022)	0.326 (0.035)	0.149 (0.037)
Race*			
Black	0.010 (0.014)	-0.015 (0.019)	0.003 (0.020)
Hispanic	0.031 (0.015)	0.056 (0.020)	0.002 (0.025)
Asian	-0.001 (0.034)	0.108 (0.042)	-0.119 (0.058)
Native American.	-0.084 (0.058)	0.130 (0.070)	-0.380 (0.101)
Mixed	-0.069 (0.030)	-0.053 (0.041)	-0.105 (0.044)
Other	0.104 (0.039)	0.175 (0.043)	-0.064 (0.077)
Middle Eastern	-0.163 (0.266)	-0.599 (0.328)	0.179 (0.438)
Education*			

*Revisiting Public Opinion on Voter Identification and Voter Fraud*  
68 STAN. L. REV. 1455 (2016)

Independent Variables	All Coeff. (s.e.)	High-information Coeff. (s.e.)	Low-information Coeff. (s.e.)
High School	0.046 (0.025)	0.097 (0.035)	0.002 (0.037)
Some College	0.032 (0.025)	0.079 (0.035)	-0.014 (0.039)
2-year Degree	0.010 (0.027)	0.055 (0.038)	-0.022 (0.041)
4-year Degree	-0.015 (0.026)	0.041 (0.035)	-0.073 (0.040)
Post-Graduate Degree	-0.036 (0.027)	0.004 (0.036)	-0.027 (0.044)
Constant	0.726 (0.033)	0.583 (0.043)	0.861 (0.055)
N	9237	5807	3430
R <sup>2</sup>	.28	.39	.12

\* Omitted categories:  
 Impersonation fraud: "it is common"  
 Ideology: "very liberal"  
 Race: "white"  
 Education: "No high school"

**Appendix B**

**Multivariate Analysis of Attitudes About Impersonation Fraud**

**Table B1**  
Opinion About Impersonation Fraud Being Frequent

Independent Variables	All Coeff. (s.e.)	Strict Photo ID States Coeff. (s.e.)	HAVA Minimum States Coeff. (s.e.)
Photo ID law*			
Strict Photo ID State	0.020 (0.031)	—	—
HAVA Minimum State	0.024 (0.017)	—	—
Democrat	-0.093 (0.028)	-0.099 (0.070)	-0.101 (0.029)
Ideology*			
Liberal	-0.041 (0.028)	-0.149 (0.100)	-0.013 (0.033)
Moderate	0.061 (0.031)	-0.076 (0.099)	0.108 (0.032)
Conservative	0.133 (0.038)	-0.008 (0.140)	0.197 (0.031)
Very Conservative	0.192 (0.042)	0.080 (0.103)	0.263 (0.071)
Not Sure	0.071 (0.042)	0.062 (0.102)	0.103 (0.067)
Race*			
Black	0.050 (0.025)	0.056 (0.051)	0.037 (0.042)
Hispanic	0.060 (0.027)	0.127 (0.020)	0.054 (0.044)
Asian	-0.035 (0.082)	0.298 (0.212)	-0.113 (0.050)
Native American	0.333 (0.095)	0.395 (0.126)	0.147 (0.195)
Mixed	0.068 (0.067)	0.228 (0.221)	0.028 (0.073)
Other	0.195 (0.080)	0.421 (0.200)	0.245 (0.119)
Middle Eastern	-0.155 (0.062)	—	-0.233 (0.038)
Education*			

*Revisiting Public Opinion on Voter Identification and Voter Fraud*  
68 STAN. L. REV. 1455 (2016)

Independent Variables	All Coeff. (s.e.)	Strict Photo ID States Coeff. (s.e.)	HAVA Minimum States Coeff. (s.e.)
High School	-0.012 (0.054)	-0.230 (0.096)	-0.068 (0.083)
Some College	-0.017 (0.065)	-0.289 (0.115)	0.096 (0.103)
2-year Degree	0.036 (0.060)	-0.234 (0.135)	0.127 (0.095)
4-year Degree	-0.013 (0.058)	-0.270 (0.105)	0.081 (0.088)
Post-Graduate Degree	-0.041 (0.058)	-0.335 (0.091)	0.081 (0.076)
Constant	0.202 (0.073)	0.576 (0.162)	0.095 (0.096)
N	9252	1416	3474
R2	.06	.09	.08

\* Omitted categories:

Photo ID law: neither HAVA minimum nor strict photo

Ideology: "very liberal"

Race: "white"

Education: "No high school"

**Appendix C**

**Multivariate Analysis of Voter Confidence and Stringency of ID Laws**

**Table C1**  
Confidence That Votes Were Counted as Cast, 2012

	Own Vote Coeff. (s.e.)	County Vote Coeff. (s.e.)	State Vote Coeff. (s.e.)	National Vote Coeff. (s.e.)
Democrat	0.211 (0.014)	0.200 (0.019)	0.205 (0.019)	0.181 (0.016)
Candidate Won State	0.152 (0.011)	0.190 (0.010)	0.214 (0.010)	0.043 (0.008)
Law Stringency	-0.010 (0.005)	-0.002 (0.005)	-0.007 (0.005)	-0.005 (0.004)
Democrat × Law Stringency	-0.032 (0.032)	-0.016 (0.008)	-0.024 (0.007)	0.008 (0.006)
Constant	0.473 (0.012)	0.331 (0.012)	0.243 (0.012)	0.137 (0.010)
N	9335	10,199	10,199	10,199
R <sup>2</sup>	.08	.08	.09	.06