Democracy Depends on All of Us

ANNUAL REPORT 2022
Those who would restrict claims of right to the values of 1789 ... turn a blind eye to social progress.

JUSTICE WILLIAM J. BRENNAN JR.
LETTER FROM THE BOARD

Illustration: Lucy Jones

Robert A. Atkins
Co-chair, Board of Directors

Patricia Bauman
Co-chair, Board of Directors

Last year the Brennan Center for Justice at NYU School of Law expanded its reach and strengthened its grasp — showing up as an incredibly effective machine for change in this critical moment for democracy.

At a time of unparalleled challenge, we are proud to report that Brennan Center has grown into a significant force in the nation’s political and legal life. It has a distinct approach: Nonpartisan. Expert. Part think tank. Part legal advocacy group. Part communications hub. We are an engine of reform ideas — committed to winning, above all, in the court of public opinion.

The Center brings peerless institutional strength to this work. It has an annual budget of $45 million, long-term financial stability through dedicated reserve funds, and a fundraising base of 39,000 generous supporters. Its staff of 158 includes attorneys, social scientists, writers, researchers, and many others — working together in person in offices in New York and Washington, DC, for maximum impact. In 2022 our social media campaigns drove more than 20 million impressions, and more than 5 million unique visitors came to our website. We work closely with students and faculty at NYU School of Law, one of the nation’s top law schools. This strength has allowed us to launch exciting new initiatives. Last July we introduced Brennan en español, which ensures that our work is an effective resource for Spanish-speaking allies and media. You can read more about this work in an interview with Editor in Chief Mireya Navarro, a Pulitzer Prize–winning former New York Times journalist, on page 42. (And if you speak Spanish, flip this annual report over to read a special Spanish-language section. We launched State Court Report, an up-to-date resource (and soon to be a new website) for context and commentary about notable cases and legal trends. The development, we are sure, would be applauded by our namesake, Justice William J. Brennan Jr., who wrote: “State courts no less than federal are and ought to be the guardians of our liberties.” For more on this work, turn to page 38. Finally, audiences for all our work are finding us thanks to our content-rich newsletters The Insider and The Briefer, which now reach more than 300,000 readers. If you aren’t getting them yet, we encourage you to take a look: you can sign up by scanning the QR code on page 23 with the camera on your phone.

As the board chairs for this extraordinary organization, we want to thank all of you for your passion for democracy, and for your commitment. Your support is more important than ever for the fights ahead. And on behalf of the board of the Brennan Center, we are so grateful we can count on you.

Robert A. Atkins
Co-chair, Board of Directors

Patricia Bauman
Co-chair, Board of Directors

Dear Friends,
We have launched a major new strategic initiative to respond to the Court’s hard-right turn. We will enlist historians to critique extreme originalism. We will publish a major new book, *The Supermajority*, showing how this Court’s extremism will provoke a massive backlash. We will press for term limits for justices and a Supreme Court code of ethics. We will forge arguments for an enduring, flexible Constitution. And we will expand our advocacy for democratic safeguards in state courts — for example, every state constitution but one has a stronger protection for the right to vote than the U.S. Constitution does. This summer we will launch an exciting new website, statecourtreport.org, to serve as an intellectual and strategic hub.

Another challenge: rising violence since the pandemic has created an opening for demagoguery and regressive policies. We fight fear with facts to show that public safety and fairness go hand in hand — with innovative policies that continue the path of bipartisan criminal justice reform.

We will address big money’s growing role in American politics. A decade after *Citizens United*, the 100 biggest federal donors now give more than all small donors combined. A ray of hope: New York State just implemented its statewide small donor public financing system, the most important response to *Citizens United* anywhere in the country.

We will hold the flag high for the next wave of democracy reforms. Our country needs innovative approaches and fresh thinking. We will work to get ready for 2024. We know that antidemocracy forces will try to: suppress free and fair elections in that crucial year. Each year there are new and ominous ways to suppress the vote, such as Florida’s election police squad, which has targeted voters of color who accidentally cast illegal ballots.

Above all, we will work to shape the next generation of reform ideas, in areas ranging from how the Department of Homeland Security protects against terrorism to new approaches to voting, such as ranked-choice voting.

In all this, the Brennan Center is a national leader. We take seriously our obligation to serve as a creative nexus for strategy, scholarship, legal advocacy, and public education. We know that much depends on our work.

Throughout most of the country’s history, candidates have debated these very issues of power and voice. In the age of Trump, those who want to tear down our democracy had been on the march. Now citizens of all parties who want to defend our democracy and make it work for all are on the march too.

The fight for democracy, justice, and the Constitution are at the center of American politics, where they belong. In 2023 let’s keep them there.

Democracy Depends On All of Us

In 2022 election deniers lost. But the fight goes on.
Following a year of unprecedented attacks on our democratic system, pro-democracy forces rallied in 2022. The Brennan Center supplied the intellectual, tactical, and communications resources that fueled the movement.
PROTECTING DEMOCRACY

Fighting for Checks and Balances

How the Brennan Center undercuts a bogus constitutional theory on its way to the Supreme Court.

BY BRIAN PALMER

mone v. Harper, now before the U.S. Supreme Court, has been called “the most important case, since the founding, for American democracy.” The supermajority of conservative justices agreed to hear an ominous claim: that the Constitution promises that any political delegations of authority, no matter where they exist — in the president, in state legislatures, or in voters — can be checked. If history decided, it could decide. Citizens United anticipated the challenge. The Supreme Court has heard oral arguments but can’t inlines its decision before June. Mean- while, the Brennan Center’s tireless work on Moore v. Harper has given democracy its best chance of sur- viving this uniquely dangerous threat.

Backers call the idea the “independent state legis- lature theory.” Calling it “a theory” is generous. It has no support in history, courts have routinely rejected it, and it does not re- quire a single vote. Its proponents will have to win over four justices willing to hear the claim. Moore v. Harper is well on its way to the Supreme Court. How the Brennan Center undercut a bogus constitutional theory on its way to the Supreme Court.

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Electoral defeat set out for a hostile take over of our elections in 2022. Dozens of candidates who embraced Donald Trump’s claim of a stolen 2020 election tried to gain control of elections in states across the country and to set the rules for 2024 and beyond. November, in a major setback for the election denial movement, voters in the most crucial battleground states across the country and to set the rules for 2024 and beyond.

Election Denial Is Down, but Not Out

By KENDALL KARSON

Voters across the country rejected election deniers in 2022, but the threat such candidates pose ahead of 2024 persists.

After the January 6 insurrection, Trump’s effort seemed shambling and discredited. But his allies sought to systematically remove the obstacles to stealing the next election. Thousands of election deniers were recruited to work the polls, forcing election officials to brace for disruptions from the inside. Vigilantes, in some a tactical gear, patrolled and filmed voters to be hit by lightning than commit voter fraud. Our democracy weathered the storm, and a broad coalition of civil society actors worked tirelessly to ensure that the votes were counted accurately. But this antidemocratic movement is far from defeated. Even among those who did not immediately accept his legitimate defeat, most of the surging interest in false narratives has plateaued since the 2020 election, like we could all breathe a sigh of relief. False fraud claims were discredited in 2022. Yet a dangerous lie that feeds it still pervades the political discourse of state and local government, as well as in state governments across the nation. The dangerous lies that feed it still pervade the political discourse of state and local government, as well as in state governments across the nation.

And voters showed they care. Across Arizona, Michigan, Pennsylvania, and Wisconsin election denier candidates for governor, attorney general, and secretary of state — offices that play a significant role in administering our elections — suffered punishing losses. The George-Pataki Republican primary voters already had rejected an election denier seeking the secretary of state job. The night wasn’t a complete rout. Many members of Congress still spout baseless claims of fraud, for example. But the losers of power over elections remained in majority hands.

Notably, election deniers running in secretary of state contests in battleground states fared worse than other statewide candidates from the same party. The 2022 midterms were a success. Still, election denial isn’t消退ing with the candidates that propped it up. For example, the Trump-aligned candidate for governor garnered more than 500,000 votes, which was the line of voters cast to vote for secretary of state. An office with outsized authority over the statutory elections. It seems like there’s evidence that election denial isn’t receding with the candidates that propped it up. "I am confident that any challenge of this election would not alter the ultimate outcome," said in a concession statement. "I am confident that any challenge of this election would not alter the ultimate outcome." Even among those who did not immediately concede, most registered only muted complaints about the process. If it fell, for the first time since the 2020 election, like we could all breathe a sigh of relief. False fraud claims were discredited in 2022. But they still drive attempts to restrict voting rights across the country. It is tracked legislation in nearly a dozen states that sought to restrict voting access, open the door to partisan interference in elections, or threaten the people and processes that make elections work.

We partnered with the ACLU and the NAACP Legal Defense and Education Fund to expose the injustice of the risky prosecution of Floridians — most of them people of color — accused of illegally registering to vote and voting while ineligible. Last year also saw the first elections held under Texas’s agonizing voter suppression law. A.B. Crenshaw researchers Kevin Morris and Coryn Grange found that Black, Latino, and Asian voters were at least 30 percent more likely than white voters to have their mail ballot rejected after it was received. Our will continue to shape our work. Ensuring the future of elections still has a home in some of our country’s most extreme corners. The dangerous lies that feed it still pervade our elections.

The antidote to election denial isn’t averting an election crisis with one smooth midterm election. The 2022 election was only a test run for 2024.

Blunting this multipronged assault on our democracy will continue to shape our work. Ensuring the future of fair and free elections requires national baseline standards, a robust restoration of the Voting Rights Act, and fair and free elections require national baseline standards.

Kendall Karson is a senior media strategist in the Department of Communications and Strategy.

Brenner Center for Justice
A fter the 2020 election, millions of Americans embraced Trump’s Big Lie. Voters’ faith in the integrity of U.S. elections was at risk. In response, the Brennan Center devised a multi-pronged effort to counter the lies and help ensure that the midterms would take place safely and securely, using research, analysis, policy recommendations, and strategic partnerships to educate and reassure voters.

Brennan Center experts partnered with the German Marshall Fund of the United States to create the Midterm Monitor, an interactive tool that tracked trends in how misinformation spreads on social media platforms. Election deniers, it was found, recycle the same falsehoods they were encountering, then conduct English- and Spanish-language tests to determine what countermessaging would most effectively boost their trust in elections. Using micro-influencers — people with 50,000 to 100,000 followers on Instagram, Facebook, TikTok, and other platforms — we deployed a social media campaign to share experts’ content said they were more likely to vote, leading to at least a 5 percent increase in the number of people who voted compared with the number who originally planned to vote. The success of these countermessaging campaigns is an encouraging sign in the fight against misinformation. Perhaps the most significant reason for optimism, however, is the outcome of the midterm elections.

Because of misinformation around the reliability of election security, 26 percent of people do not believe that their vote “really counts.” Arti­ificial intelligence and machine learning will automate misinformation campaigns and make them more difficult to trace. The increasing precision of micro­targeted misinformation makes individuals more vulnerable to the tactic. Polling data shows conclusively that misinformation is eroding public trust in U.S. democracy. Nearly two out of three Americans believe that misinformation around the reliability of election security is a sign of something more sinister. Even before the 2020 election, confidence that U.S. democracy is at risk of failing. And because of misinformation around the reliability of election security, 26 percent of people do not believe that their vote “really counts.”

Combating these trends is among the greatest challenges facing the Brennan Center, and our democratic system, in the coming years. Our work will focus on messaging to break through and counter proliferating falsehoods by using cutting-edge polling and social listening techniques. We will also continue to expose the role that social media platforms play and explain how imposing transparency rules on these platforms would screen a light on misinformation.

Misinformation, however, is not going away. Artificial intelligence and machine learning will automate misinformation campaigns and make them more difficult to trace. The increasing precision of micro-targeted misinformation makes individuals more vulnerable to the tactic. Polling data shows conclusively that misinformation is eroding public trust in U.S. democracy. Nearly two out of three Americans believe that misinformation around the reliability of election security is a sign of something more sinister. Even before the 2020 election, confidence that U.S. democracy is at risk of failing. And because of misinformation around the reliability of election security, 26 percent of people do not believe that their vote “really counts.”

As Election Day approached, we worked to reach Latino voters in Arizona, Florida, Georgia, and Texas, who had significant exposure to election misinformation. We analyzed social media posts to pinpoint the falsehoods these voters were encountering, then conducted English- and Spanish-language tests to determine what countermessaging would most effectively boost their trust in elections. Using micro-influencers — people with 50,000 to 100,000 followers on Instagram, Facebook, TikTok, and other platforms — we deployed a social media campaign to share our messaging. The campaign generated more than 1.2 million impressions among our target audiences. Twenty-seven percent of those who saw the trusted messengers’ content said they were more likely to vote, leading to at least a 5 percent increase in the number of people who voted compared with the number who originally planned to vote. The success of these countermessaging campaigns is an encouraging sign in the fight against misinformation. Perhaps the most significant reason for optimism, however, is the outcome of the midterm elections. Elections unfolded safely, and the anticipated violence didn’t materialize. Many election deniers were defeated, especially candidates seeking to control election administration.

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Securing the safety of local election officials was a top Brennan Center priority heading into the 2022 midterms. Civil servants who make our democracy function faced a deluge of specific and terrifying threats during the 2022 cycle, threats that in some cases forced them and their families from their homes. According to a 2021 Brennan Center survey, one-third of election officials feel unsafe because of their job, and nearly one-fifth feel threats to their lives as a job-related concern.

The Brennan Center has amassed a squad of former top election officials to work to strengthen this community. Senior Counsel Elizabeth Howard was a top Virginia official. Natalie Tennant was secretary of state of West Virginia. The newest member of the team: Veronica DeGraffenreid, the former secretary of state of Pennsylvania and longtime director of elections for North Carolina. They work with Lawrence Norden, Senior Director of our Elections and Governance Program. The Brennan Center has assembled a powerful new force: the Committee for Safe and Secure Elections. Together we created a powerful new force: the Committee for Safe and Secure Elections.

“We brought together law enforcement and election officials from across the country to identify obstacles and solutions,” says Howard. “Bringing together a diverse group of community members enabled us to develop practical resources and guidance that helped communities keep both our election officials and voters safe.” The election administrators, police, and prosecutors met at gatherings organized by the Brennan Center and partners at Microsoft in Orlando, Florida and Washington, D.C.

The committee drafted a five-step approach to safer elections, starting with a simple but critical step: connect. In many locales, simply identifying the correct point person in a community and meeting with other stakeholders in the area were important first actions. Once that connection was established, election officials and law enforcement were encouraged to share the jurisdiction’s experiences and important election administration information, agree on roles and responsibilities in the effort, plan a coordinated response to potential incidents, and practice that response. The committee also produced state-specific reference guides so that all parties understood the laws protecting election officials and voters.

Committee members fanned out across the media to spread the message, earning coverage in numerous national and local outlets from Reuters to the trade magazine Sheriffs World to the 2022 Brennan Center survey. Tapping into existing election security measures that research had demonstrated were most effective. Sheriffs Justin Smith of Larimer County, Colorado, and Peter J. Routoujian from Middlesex, Massachusetts, co-authored an op-ed calling on their colleagues to join the effort to keep our election officials and voters safe. These messages have been shown to be effective in swaying election skeptics: in October, the Brennan Center and R Street Institute released a poll, conducted by Benenson Strategy Group, showing that Republicans’ confidence in elections increased by 21 percentage points when they were informed about existing election safeguards. The messaging helped inoculate citizens against disinformation and sapped support for violent responses to the 2022 election.
The creation of the Department of Homeland Security in 2002 marked the largest shakeup of the federal government in a half century. Reeling from the 9/11 attacks, Congress sought a new model for homeland security. It brought together nearly two dozen agencies under the new department, whose staff became the federal government’s third largest. Once under the DHS umbrella, these agencies—which cover a range of activities from immigration and customs enforcement to intelligence gathering to protecting federal government facilities—were meant to prioritize and contribute to counterterrorism efforts.

That reorganization, however, has carried significant costs. In 2022, the 20th anniversary of DHS’s founding, the Brennan Center’s Liberty and National Security Program launched a series of reports taking a holistic approach to DHS reform. That series, which will conclude in 2023, identifies the structural causes of recurrent counterterrorism abuses and proposes innovative solutions. “Two decades after its creation, it is time to take stock of how DHS has executed its counterterrorism mission so we can build mechanisms for better protecting Americans’ rights and to ensure that the department’s broad ranging efforts are actually successful,” says Faiza Patel, senior director of the Liberty and National Security Program.

Since the department’s establishment, for example, abuses of civil rights and civil liberties have become endemic. Muslim Americans are consistently singled out, including being pulled aside when entering the U.S. and questioned about their religious beliefs and practices. More recently, DHS has turned its focus to Black Lives Matter protesters, environmental activists, and others exercising their First Amendment right to dissent. In 2020, as racial justice protests erupted across the country, the department used its counterterrorism authorities to gather intelligence about protesters, supporting the Trump administration’s efforts to portray protests as the work of mysterious anti-fascists. Many counterterrorism initiatives have been based on dubious science. So-called “countering violent extremism” programs purport to identify people prone to engaging in terrorist acts and refer them for intervention. But the criteria relied upon to suggest terrorist proclivities—such as feelings of alienation and discrimination—are common experiences rather than credible indicators of criminal activity. The Biden administration has acknowledged the biases inherent in the programs, yet rather than dismantle them, the administration rebranded and expanded them.

Moreover, through its multitude of activities and programs—both at the border and inside the United States—DHS has accumulated a vast store of data about Americans not suspected of criminal activity.

Little is understood about how this information is used or how it is protected from hostile governments. Oversight of DHS is piecemeal and inadequate. Congress has endeavored to circumscribe the agency’s extensive and wide-ranging authorities by establishing internal watchdog offices to protect Americans’ privacy, civil rights, and civil liberties. Alongside the department’s general counsel and inspector general, these offices have occasionally curbed some of DHS’s abuses, but they have lacked the type of leadership support needed to rein in broader violations. In Congress, meanwhile, more than 100 committees and others exercising their First Amendment right to dissent. In 2020, as racial justice protests erupted across the country, the department used its counterterrorism authorities to gather intelligence about protesters, supporting the Trump administration’s efforts to portray protests as the work of mysterious anti-fascists. Many counterterrorism initiatives have been based on dubious science. So-called “countering violent extremism” programs purport to identify people prone to engaging in terrorist acts and refer them for intervention. But the criteria relied upon to suggest terrorist proclivities—such as feelings of alienation and discrimination—are common experiences rather than credible indicators of criminal activity. The Biden administration has acknowledged the biases inherent in the programs, yet rather than dismantle them, the administration rebranded and expanded them. Costly initiatives to track and assess travelers have likewise been undertaken, even though DHS’s own inspector general found that they were of questionable utility.

Through its multitude of activities and programs—both at the border and inside the U.S.—DHS has accumulated a vast store of data about Americans not suspected of criminal activity. Rethinking DHS The behemoth agency has long evaded comprehensive oversight. The Brennan Center is proposing actionable reforms.

BY ZACHARY LAUB
PROTECTING DEMOCRACY

“Too much research has to be done by inference rather than hard data. You need reliable numbers before you can advocate for change.”

Amer Grawert Senior Counsel

The Brennan Center’s report on long-standing Department of Homeland Security policies and practices provides a crucial reminder of the need for better oversight and accountability. While the center of attention remains the Department of Communications and Strategy, the recommendations in the report for more disciplined and transparent policy formulation and implementation are essential.

This report highlights the need to improve the collection and dissemination of information on crime, particularly those offenses impacting communities of color. It calls for increased transparency in the data collection process and a commitment to more rigorous oversight to prevent the misuse of data and ensure that policies are evidence-based.

In the wake of the release of the report, there is an urgent need for congressional action to address the issues raised. The Brennan Center’s work is a call to action for both policymakers and civil society leaders to work together to ensure that our laws and policies are fair, just, and effective.

The Brennan Center’s recommendations provide a roadmap for reform and should be considered as part of a broader effort to improve the transparency and accountability of government agencies. As the Center for Public Integrity recently reported, the Biden administration has a track record of not following through on promises made during the campaign. The Brennan Center’s report offers a significant opportunity to hold the administration accountable and ensure that the promises made during the campaign are fulfilled.

The Center’s work is particularly important given the challenges facing our criminal justice system. As the report highlights, there is a need for more rigorous oversight and transparent policy formulation to ensure that our laws and policies are fair, just, and effective. The Brennan Center’s recommendations provide a roadmap for reform and should be considered as part of a broader effort to improve the transparency and accountability of government agencies.

In conclusion, the Brennan Center’s report is a call to action for both policymakers and civil society leaders to work together to ensure that our laws and policies are fair, just, and effective. The report offers a significant opportunity to hold the administration accountable and ensure that the promises made during the campaign are fulfilled.

Brennan Center for Justice
In 2022 the Brennan Center countered waves of election disinformation with cutting-edge research, strategic expansion of our digital platforms, and media outreach.
In just 5 years, Brennan Center has vastly expanded its reach.

We’ve Got Mail

In 2019, the Brennan Center launched a digital newsletter strategy aimed at bringing new audiences to our website and delivering critical thinking on our core issues. From just over 6,000 subscribers in our first year, we now reach over 300,000.
Motion for Change

Millions of Americans watched Brennan Center videos in 2022, three of which won Anthem awards for excellence in mission-driven communications.

3.5M VIDEO VIEWS
Across Facebook, Twitter, Instagram, YouTube, TikTok, and LinkedIn

We Diversified Our Community

To hedge against turbulence at Twitter, the Brennan Center launched new platforms on Mastodon, Substack, and TikTok and expanded video content across existing social channels.

35.2M IMPRESSIONS
Across Facebook, Twitter, Instagram, LinkedIn, and other platforms

COUNTERING DISINFORMATION IN THE MIDTERMS

We worked with local influencers to mount a voter education campaign in key battleground states. Among those who saw the content:

- 36% were reminded to turn in their ballots
- 27% were more likely to vote
- >5% increase in voter turnout*

*compared with the number who originally planned to vote

Among those who saw the content:

*58% were reminded to turn in their ballots
*45% were more likely to vote
*35% increase in voter turnout*
It’s a disruption to their ability to pay their bills, child care, their job.”

Rikers Island on its job.

It’s difficult to distinguish between people who are just talking and people who have an actual plan to carry out violence.

Congress must deal with the immediate threat of election sabotage that continues across the country.

It’s important to collect clear and accurate data to reduce deaths in custody in the future.

Democracy depends on the losing side accepting the result.

October 8

The Brennan Center participates… One不可能 for any to figure out who’s eligible to vote.

The Brennan Center for Justice was featured

or cited in 273 news broadcasts
GETTING THE WORD OUT

Expert Testimony

Brennan Center advocates shared their expertise with policymakers around the country, at both the federal and the state level.

**JANUARY 20**
Gowri Ramachandran
On threats to election infrastructure and voter confidence

**FEBRUARY 4**
Daniel Weiner
Advocating for maintaining and expanding campaign disclosure laws*

**JUNE 7**
Michael German
On the rise of white supremacist and far-right domestic terrorism

**JULY 19**
Daniel Weiner
In support of the DISCLOSE Act

**JULY 20**
Elizabeth Howard
Advocating for protections for election officials

**SEPT 6**
Gowri Ramachandran
Advocating for the bolstering of the Courthouse Ethics and Transparency Act

**SEPTEMBER 20**
Eliza Sweren-Becker
On the dangers of the independent state legislature theory

**NOVEMBER 22**
Ames Grawert
In support of the Clean Slate Act

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* Testimony before state legislatures
We hosted 29 thought-provoking events in 2022. 30K RSVPs in 2022

“If people don’t believe that our system works, then we’ve lost it.”
SEAN MORALES-DOYLE

Democracy on the Brink/
Nuestra democracia en la cuerda floja
Clockwise from left: Carolina Peguero, reporter/anchor, Noticias 24/7; Roberta Braga, Director of Counter-disinformation Strategies, Equis Institute; Esosa Osa, Deputy Executive Director, Fair Fight Action; Moderator: Sean Morales-Doyle, Director, Brennan Center Voting Rights Program

The Midterms: What Happened — and Where Do We Go from Here?
From left: David Plouffe, former Senior Adviser to President Obama, New York Times bestselling author, political analyst for NBC News, and host of the Campaign HQ podcast; Rob Jesmer, Managing Partner of FPL Strategies; Elise Jordan, political analyst and author, MSNBC/NBC News; Sewell Chan, Editor in Chief of the Texas Tribune

“...Inflation … democracy at risk … abortion …
This was a big election and voters behaved differently than we might be accustomed to.”
DAVID PLOUFFE

The Fight to Vote: A Conversation with Michael Waldman and Melissa Murray
Moderator: Melissa Murray (left), Frederick I. and Grace Stokes Professor of Law, NYU School of Law; Michael Waldman (right), President, Brennan Center for Justice; author of The Fight to Vote and The Second Amendment: A Biography

“There were some big things going on. Inflation … democracy at risk … abortion … This was a big election and voters behaved differently than we might be accustomed to.”
DAVID PLOUFFE
“Don’t take democracy for granted. It can happen here.”

JONATHAN MARTIN

How January 6 Is Poisoning Politics

Jonathan Martin (left), Senior Political Correspondent, New York Times; political analyst, CNN; coauthor, New York Times bestseller This Will Not Pass: Trump, Biden and the Battle for America’s Future; Moderator: Betsy Fischer Martin, Executive Director, Women & Politics Institute at American University, former Executive Producer, Meet the Press with Tim Russert

“Drawing the Line: How Redistricting Impacts Latino Communities in Florida

Produced in partnership with Hispanic Federation

Moderator: Mireya Navares (pictured), Editor in Chief, Brennan en español; Laudi Campo, Florida Director, Hispanic Federation; Miranda Galindo, Senior Counsel, LatinosJustice, PRLEF; Thomas Kennedy, Policy Advisor; Florida Immigrant Coalition; Jackie Collins, Southwest Regional Director; NALEO Educational Fund; Joel Flores, Mayor, City of Greenacres

“This isn’t the end of the story of the Trump Republican Party. I don’t know where in that story we are. I don’t think we’re at the beginning anymore. But we might be at the middle of that story, not the end.”

JEREMY PETERS

The Party of Trump


“The Independent State Legislature Theory’s Radical Threat to Democracy

From left: Kate Shaw, Professor of Law and Co-director of the Floersheimer Center for Constitutional Democracy, Cardozo Law; Vikram D. Amar, Dean and Iwan Foundation Professor of Law, University of Illinois School of Law; Carolyn Shapiro, Professor and Co-director of the Institute on the Supreme Court of the United States, Chicago-Kent College of Law, Illinois Tech; Moderator: Wilfred U. Codrington III, Fellow, Brennan Center; Assistant Professor of Law, Brooklyn Law School; Leah Litman, Assistant Professor of Law, Michigan Law

This isn’t the end of the story of the Trump Republican Party. I don’t know where in that story we are. I don’t think we’re at the beginning anymore. But we might be at the middle of that story, not the end.”

JEREMY PETERS

The Party of Trump

Serious challenges remain for our democracy, from a broken campaign finance system to a regressive and activist Supreme Court. The Brennan Center has big ideas to meet the moment.
A Regressive Court Turns Activist


The Supreme Court has long been conservative. Why did you decide to write this book now?

The conservative legal movement has been building toward a moment for decades—a near-conservative supermajority. The numbers matter. A single swing justice can now pull the Supreme Court toward a more moderate approach. We saw a big swing in June 2022. This is a big moment for the country. It’s a big moment for the Brennan Center too, as we assess our own future moment for the country. It’s a big moment for the Court toward a more moderate approach. We saw the results clearly: three decades of social change—on abortion, guns, and environmental regulation—crammed into three days in June 2022. This is a big moment for Brennan Center too, as we assess our own future.

The book begins with a history of the Supreme Court, focusing on major inflection points—Marbury v. Madison, Dred Scott, the Lochner era, and the Warren Court. Why are these critical to understanding the current Court?

The U.S. Supreme Court is a singular institution. In no other democracy do nine unelected officials have so much power. Over the country’s history, the Supreme Court has largely aligned with the country’s political consensus. But on a few occasions, it has been extreme, partisan, or very activist. When that happens, there is a major backlash and sometimes a political realignment. Dred Scott, which legislated slavery throughout the country, propelled the rise of the Republican Party and helped ignite the Civil War. In the Lochner era, the Court responded to social and economic upheaval by blocking progressive government regulation. It fell to decades of backlash, including Theodore Roosevelt’s 1912 third-party run for president, and of course the conflict between Franklin and the “Nine Old Men.” We are living through the backlash against the Warren Court right now. There is a regular cycle of Supreme Court activism and backlash. So it’s entirely appropriate for Americans to debate the Supreme Court in explicitly political terms, as we see all over our history.

The Court has become an activist—active, rather than activist. Supreme Courts are usually regressive—and it’s important for progressives to shed their illusions. Why did you decide to write this book now?

The Supermajority was an outlier—a Supreme Court that is more activist than the Supreme Court ever has been or ever will be. How can we understand the current Court? The book begins with a history of the Supreme Court, focusing on major inflection points—Marbury v. Madison, Dred Scott, the Lochner era, and the Warren Court. Why are these critical to understanding the current Court?

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State constitutions are underappreciated venues for vindicating rights, especially at the state level. To be sure, state courts in 38 states and the District of Columbia have struck down gerrymandered maps. Reproductive rights loom large in this conversation. In Dobbs v. Jackson, the Supreme Court ruled that there is no federally protected right to abortion. But that’s not the case in more than 20 states, which have enshrined abortion rights in their constitutions. Even outside Dobbs, several state supreme courts identified abortion rights within their state constitutions, separate from federal constitutional protections. In short, state courts are the frontline of rights protection. But when it comes to rights protection, the courts, they’re thinking about the Supreme Court. But when it comes to rights protection, the courts, they’re thinking about the Supreme Court.

The Brennan Center launches a new forum to learn about their state courts and the importance of state courts in protecting rights. In the fall, the Brennan Center will launch State Court Report, a new hub for news, analysis, and commentary on constitutional developments in state courts. State courts are the powerhouses of the judiciary: 95 percent of cases are filed there. State supreme courts decide more than 30,000 cases each year. State constitutions did address partisan redistricting. For example, since the Supreme Court’s ruling, state courts in Alaska, Maryland, New York, North Carolina, Ohio, and Pennsylvania have struck down gerrymandered maps. Reproductive rights loom large in this conversation. In Dobbs v. Jackson, the Supreme Court ruled that there is no federally protected right to abortion. But that’s not the case in more than 20 states, which have enshrined abortion rights in their constitutions. Even outside Dobbs, several state supreme courts identified abortion rights within their state constitutions, separate from federal constitutional protections. In short, state courts are the frontline of rights protection. But when it comes to rights protection, the courts, they’re thinking about the Supreme Court. But when it comes to rights protection, the courts, they’re thinking about the Supreme Court.

There isn’t a place that provides a one-stop shop for people’s lives. And yet they often go under the radar. When people think about the Constitution or the federal judiciary, they probably think about the Supreme Court. But when it comes to rights protection, the courts, they’re thinking about the Supreme Court. But when it comes to rights protection, the courts, they’re thinking about the Supreme Court.

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How to Counter Big Money in Politics

Amplifying small donations combats the influence of megadonors.

The influence of wealthy campaign donors has been growing ever since the Supreme Court’s infamous ruling in Citizens United v. Federal Election Commission, which allowed corporations and other outside groups to spend unlimited amounts in our elections. Chasen Lee, director of the Brennan Center’s Elections and Government Program, explains strategies to create a more democratically representative system.

What negative impacts are megadonors having on our democracy? Just seven sources of the Supreme Court’s Citizens United decision effectively deregulated money in politics, the antidemocratic effects of unlimited big money have become painfully clear. The increasing imbalance in contributions affects a more democratically representative system.

What reforms did we see adopted last year? Following years of advocacy that we helped lead, New York State’s groundbreaking small donor public financing program launched in November. This program is the strongest legislative response in the nation to Citizens United. It will pave the way for New Yorkers to push back against the influence of big money and provide candidates who choose to participate a means to raise competitive sums based on community support.

What’s next for small donor public financing? Momentum is growing. In addition to New York’s new program, the first cycle of Denver’s program is underway. More public financing programs will soon launch in Baltimore County and Prince George’s County in Maryland.

What works for small donor public financing? It will pave the way for New Yorkers to push back against the influence of big money and provide candidates who choose to participate a means to raise competitive sums based on community support.

Small donor public financing incentivizes candidates to seek support from everyday citizens, not just a few big donors. When designed well, the public financing system enables participating candidates to rely principally on constituent support and still raise what they need to compete in the super PAC era. It also helps reduce financial barriers to women, people of color, and other historically disadvantaged groups who seek representation in elected office.

What can be done about this? Public financing of campaigns, which the Brennan Center has championed through policy design and advocacy for decades, is at the center of this discussion. But in 2022, the imbalance of influence was more striking than ever before.

The Brennan Center for Justice has championed through policy design and advocacy for decades, the public financing system enables participating candidates to rely principally on constituent support and still raise what they need to compete in the super PAC era. It also helps reduce financial barriers to women, people of color, and other historically disadvantaged groups who seek representation in elected office.

Seven donors gave $71M in support of candidates who cast doubt on the results of the 2020 presidential election. — on efforts to overturn the 2020 election or manipulate election processes for the 2022 races. —

Total spent by just seven sources on election subversion efforts.

Seven donors gave in support of candidates who cast doubt on the results of the 2020 presidential election.

$71M

$64M

$135M

Total spent by just seven sources on election subversion efforts.

Illustration: Lucy Jones
Why We Built Brennan en español

Language should not be a barrier to participating in democracy.

In 2022 the Brennan Center launched a Spanish-language website featuring news and analysis related to voting rights, redistricting, misinformation, and other topics especially relevant to Latinos. So much of the Brennan Center’s 2020 work particularly affected Latinos — for instance our research and advocacy around keeping the citizenship question off the census form and our efforts to defend voting rights.

How are you ensuring that Brennan en español reaches the widest possible audience, and what you hope to do to broaden its reach in the future?

We focus on translating key Brennan Center written content to Factchequeado, a fact-checking service sponsored an event on the midterms with the National Hispanic Federation, we cosponsored an event on the midterms with the Hispanic Federation, and we’ve translated Brennan Center content to new platforms. For instance, we know that picking up on the fact that there’s no word in English and Spanish, so we debuted a home page on our website.

In 2020, for instance, we worked with the Spanish-language broadcast media Union to help educate voters about mail voting, laws protecting voters from intimidation at the polls, and what to expect on election night so that delays in vote counting wouldn’t be misinterpreted as a sign of fraud. In 2022 the Brennan Center and Hispanic Federation cosponsored webinars on how redistricting affected Latino communities in two key battleground states. This kind of work — countering attempts to suppress the votes of Latinos, racially profile voters, and entice new citizens to go to the polls for the first time, they may find it more challenging to navigate election-related information and misinformation because of unfamiliarity with the voting and election system. The Brennan Center can provide them with trustworthy information in an accessible form.

Today Latinos are driving the country’s growth, more than 40 million people in the United States speak Spanish. This is crucial in the fight to ensure that they can fully participate in our democracy.

Since peddlers of disinformation often target Latino audiences, we developed the “Falsedad–Realidad” series.

How are you ensuring that Brennan en español reaches the widest possible audience, and what you hope to do to broaden its reach in the future? We focus on translating key Brennan Center written and multimedia content that can be mined by our partners and shared by Latinx audiences. We also create videos and share original content to make the organization’s work more accessible to those who may be less familiar with our issues. Short-form videos on TikTok and megadonors in the 2022 midterm elections.

We’ll also expand our efforts to create new kinds of content for new platforms. For instance, we know that Latino communities across the country remain shut out of real political power because of gerrymandering districts, and we’ve translated Brennan Center studies on the subject. But for our website launch, we wanted to do more. We made a humorous video that picked up on the fact that there’s no word in Spanish for gerrymandering. That video went viral, with almost 1 million views. Latinos are targeted with disinformation in both English and Spanish, so we debuted a homepage feature, “Falsedad–Realidad,” that debunks false-to-true in a format that readers and allies can easily share on social media. And we have a feature called “Los latinos y la democracia,” a kind of Latino power tracker that extracts mentions of Latinos in our content for new platforms. For instance, we know that Latino communities across the country remain shut out of real political power because of gerrymandering districts, and we’ve translated Brennan Center studies on the subject. But for our website launch, we wanted to do more. We made a humorous video that picked up on the fact that there’s no word in Spanish for gerrymandering. That video went viral, with almost 1 million views. Latinos are targeted with disinformation in both English and Spanish, so we debuted a homepage feature, “Falsedad–Realidad,” that debunks false-to-true in a format that readers and allies can easily share on social media. And we have a feature called “Los latinos y la democracia,” a kind of Latino power tracker that extracts mentions of Latinos in our content for new platforms.

We extend immense gratitude to The Diagrammen- Sperling and Ford foundations for their support in helping launch this initiative.

Since peddlers of disinformation often target Latino audiences, we developed the “Falsedad–Realidad” series.

In what ways are Latinos uniquely impacted by some of the Brennan Center’s core issues?

The wave of restrictive voting laws in states like Florida and Texas suppress the Latino vote.

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Financials

With American democracy on the line, our supporters stepped up with remarkable generosity in 2022. Thanks to their outpouring of support, we continued our efforts to provide the independent, nonpartisan, and tireless research and advocacy that make us a leading agent of reform. We are grateful and proud to be part of a strong movement for democracy.

The Brennan Center is grateful for the pro bono support provided by the law firm community (see page 57). The monetary value of those services is not included in this chart.
The Brennan Center’s critical work has garnered extraordinary support in the past few years. This has enabled three special initiatives designed to ensure a solid, sustainable future for our organization.

**Brennan Legacy Fund**
Our Board-designated strategic opportunities and reserves fund, the Brennan Legacy Fund, grew to $300 million by the end of 2021, thanks to special support. We have no formal endowment. The Legacy Fund operates as a quasi-endowment. It is intended to generate income to contribute to our core work. It also protects against unanticipated budget shortfalls or sudden unbudgeted expenses. Still, we aim to raise our operating budget every year. Although affiliated with NYU School of Law, we are financially independent of it, and we receive no government funding.

**Brennan Future Fund**
This $25 million fund is intended to be drawn down over a limited period to spur bold new thinking to advance democracy and justice in America. Funds dedicated to the Brennan Future Fund support the Brennan Center’s Democracy Program.

Inez Milholland Endowment for Democracy
Inez Milholland (1886–1916) was a leader for women’s suffrage, an ardor fighter for equality, and a graduate of NYU School of Law. This $1.8 million dedicated funds support the Brennan Center’s Democracy Program.

**Special Thanks**
The work of the Brennan Center for Justice also happens thanks to the commitment of the many supporters whose names are not listed here, including those who contribute through collaborative funding networks, pro bono legal assistance, or employee giving programs, as well as donors who prefer to remain anonymous. We deeply appreciate their generosity.

We sincerely regret any omissions or incorrect listings. Please contact us at donations@brennan.law.nyu.edu with updates.

**Planned Giving**
A growing cohort of leaders have included the Brennan Center for Justice in their estate planning as members of our Brennan Legacy Circle. For more information about how to contribute to the Brennan Legacy Circle, please contact Paulette Hodge at hodgep@brennan.law.nyu.edu or 646.925.8750.

**Our Supporters**
The Brennan Center’s work is made possible through the generous financial support of our community of donors and their commitment to an America that is democratic, just, and free. We are proud to have received the highest mark on transparency and effectiveness from Charity Navigator and Candid, and we are pleased to recognize just some of our 39,000 donors for their partnership in 2022.*

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*Funding levels represent annualized giving.
“There is no institution in America more important in this moment, to strengthening democracy than the Brennan Center for Justice.”

Daron Walker
President, Ford Foundation
Institutional supporter since 1996

“Just listened to a Brennan Center webinar, and once again it made me realize how important this organization’s work is. I don’t have a legal education, so I appreciate that there’s always something I can take away.”

Catherine Thielemann
Supporter since 2017
San Diego, CA
"We’re honored to support the Brennan Center in support of its critical mission. As a Purple Heart Vietnam veteran, I’m distressed to see our core values of democracy, equality, and opportunity are compromised. This country needs the Brennan Center.

—Michael Burns

Chairman, The Dallas Foundation
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“The Brennan Center is the most important NGO in America today, and a crucial force in the world at large.”

Anna Tumbor Supporter since 2016 New South Wales, Australia

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Gary S.
Bob Spri
and Amy Ruth
James Krahe
Gary S.
I’ve been an attorney for over 40 years and have done to support our Constitution, democracy, and justice for all. I wanted to support any work being done to protect our institutions from attack. I support because I believe in these values and want to see them protected. Columbus, OH Supporter since 2022
“Thank you for your continued support. Our work in 2022 depended on the support of legal leaders who fought alongside us for democracy, justice, and the rule of law. We are tremendously grateful for their commitment.

We extend special thanks to the following leaders who joined us and partnered to fight the ‘Independent State Legislation Theory’ in the U.S. Supreme Court (see page 8).

Pro Bono Partners
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La democracia depende de todos nosotros

INFORME ANUAL 2022
El Brennan Center lanzó su sitio web en español, donde se publican noticias y análisis en torno al derecho al voto, la distribución de distritos electorales, la propagación de información errónea y otros temas de especial interés para el público hispano y bilingüe. La jefa de redacción de Brennan en español, Mireya Navarro, habla sobre qué motivó esta nueva iniciativa, qué ha logrado hasta el momento y cómo procura dar apoyo a los medios de comunicación, organizaciones y votantes de la comunidad latina.

¿Qué motivó el lanzamiento de Brennan en español?
Nuestro sitio web en español se lanzó oficialmente en abril de 2022, pero el proyecto realmente comenzó antes del censo de 2020 y las elecciones presidenciales, cuando empezamos a traducir las publicaciones del Brennan Center que eran de particular interés para el público latino. En ese momento, yo me desempeñaba como estratega de medios, y el objetivo inicial de esas traducciones era el de atender a las necesidades del universo paralelo de los medios de comunicación en español — las cadenas nacionales de televisión Univisión y Telemundo y la red de miles de estaciones de radio y publicaciones impresas y online más pequeñas — que existen a nivel regional y local. También queríamos ser un recurso para todas las organizaciones aliadas que atienden a las necesidades de la comunidad hispanohablante. Las organizaciones latinas que forman parte de nuestro trabajo sobre el derecho al voto y las políticas públicas nos han dicho que estamos llenando un vacío porque muchos otros grupos no pueden ofrecer recursos en los dos idiomas.

¿De qué forma algunos de los temas centrales del Brennan Center afectan directamente a la comunidad latina?
La gran mayoría del trabajo del Brennan Center durante 2020 afectó muy particularmente a la comunidad latina, por ejemplo, nuestras investigaciones y nuestro trabajo de defensa y activismo para no incluir la pregunta de ciudadanía en el formulario de encuesta del censo y sobre el derecho al voto. Sentíamos la urgencia del idioma no debería ser una barrera para participar en nuestra democracia.
Nos centramos en traducir el contenido escrito y multimedia clave del Brennan Center para que nuestros aliados puedan usarlo y así abordar a su público más amplio. También creamos y compartimos contenidos no originales para hacer que el trabajo de la organización se vuelva más accesible a otras personas que quieran conocer nuestros temas de trabajo. Tía Ti y su formato de videos cortos son ideales para esto, y hemos experimentado con estos videos para explicar temas como el rol de la financiación y las megadonaciones en las elecciones de 2022.

Continuamos ampliando nuestras alianzas para organizar eventos en conjunto y llegar a un nuevo público. Para eso, además de los paneles que organiza, el Brennan Center puede brindarles información y apoyo para lanzar esta iniciativa. ¿Qué le gustaría que lograra Brennan en español? Hemos demostrado ser una fuente valiosa para nuestros aliados latinos. Para el próximo año, continuaremos trabajando para esa red, lanzaremos un boletín de Brennan en español destinado a organizaciones, legisladores y gobernantes, que cubra temas del sistema de justicia, con el apoyo de The Diamonstein-Spielvogel Foundation por su apoyo para lanzar esta iniciativa.

Extendemos nuestro agradecimiento en más de 40 millones de personas en los Estados Unidos hablan español.
El personal del Brennan Center for Justice acudió junto a sus aliados a una fiesta de terraza del Hotel Freeland en Manhattan en mayo de 2022 para celebrar el lanzamiento oficial de Brennan en español. Una diversa representación de la ciudad de Nueva York estuvo presente para apoyar el nuevo sitio web en español. El presidente y CEO del Brennan Center, Michael Waldman, con algunos miembros del personal. Frederick Vélez III Burgos e Ingrid Alvarez-DiMarzo de Hispanic Federation.
Controlamos la información errónea

A pesar de los triunfos a favor de la democracia observados en las elecciones legislativas, debemos prepararnos para combatir todos los esfuerzos futuros que buscan debilitar nuestras elecciones.

POR GABRIELLA SANCHEZ

En agosto de 2022, el Brennan Center para Justicia publicó un informe donde identificamos los vacíos de información del público sobre las elecciones y las formas en que podemos evitar que la información errónea llene esos vacíos, y desarrollamos ese trabajo para nuestra red de funcionarios electorales y la prensa. También presentamos el informe a un panel organizado por la Asociación Nacional de Periodistas Españoles. Un mes antes de las elecciones, publicamos un artículo donde resaltábamos dos temas sobre los que debemos estar alerta: la debilidad y el tiempo que tomó compartir la información errónea, las personas que negaban los resultados y otros vacíos. Estos hallazgos les permitieron al Brennan Center y a sus aliados refutar las teorías conspirativas antes de que se divulgara en las redes sociales. Según se descubrió, las personas que negaban los resultados cuando se divulgaba en las redes sociales. Según se descubrió, las personas que negaban los resultados tendencias de la información errónea. Estas tendencias son un antídoto poderoso en el conteo de votos. Los datos también indican que la precisión cada vez más importante es la precisión con la que se dirige la diseminación de información. Eso es el resultado de las elecciones legislativas.

Brennan Center para Justicia
El Brennan Center lideró un plan para garantizar la seguridad de las autoridades electorales antes de las elecciones de 2022.

**POR BRIAN PALMER**

Garantizar la seguridad de las autoridades electorales es uno de los principales objetivos del Brennan Center. En vista a las elecciones legislativas de 2022. Los funcionarios públicos que se aseguran de que nuestra democracia funcione son vitales para garantizar que nuestras elecciones sean libres, justas, y seguras. En este momento, varias autoridades están recibiendo amenazas de vida que, en algunos casos, les obligaron, junto a otras personas interesadas, a mudarse en el país. Estos son momentos de incertidumbre donde es crucial fortalecer a las autoridades electorales y a la ciudadanía.

Durante la campaña de 2020, un tercio de los funcionarios electorales reportaron enfrentar amenazas específicas y gráficas. Además de nuestras autoridades, las personas que participaron en las elecciones también fueron víctimas. Por ejemplo, en West Virginia, una persona informó que recibió amenazas de muerte por participar en las elecciones. En Pennsylvania, una persona informó que recibió amenazas de muerte por participar en las elecciones. En Texas, una persona informó que recibió amenazas de muerte por participar en las elecciones. En Washington, D.C., una persona informó que recibió amenazas de muerte por participar en las elecciones.

El Brennan Center formó un equipo de trabajo para garantizar la seguridad de las autoridades electorales. El equipo se encargó de investigar las amenazas y encontrar soluciones a las mismas. Las soluciones incluyeron la creación de un plan de seguridad que garantizara la seguridad tanto de nuestras autoridades como de nuestras residentes.

El equipo elaboró un método de cinco pasos para garantizar la seguridad de las autoridades electorales y a la ciudadanía:

UNO: **Conectarse** con las autoridades electorales y judiciales para garantizar que nuestras democracias funcionen.

DOS: **Compartir** las experiencias en torno a la intimidación contra funcionarios electorales.

TRES: **Acordar** qué medidas deben tomarse para garantizar la seguridad de nuestras democracias.

CUATRO: **Planificar** una respuesta coordinada.

CINCO: **Practicar** esa respuesta ante posibles incidentes.
Aquellas personas que desean restringir los reclamos de derechos según los valores de 1789... cierran los ojos ante el progreso social.

MAGISTRADO WILLIAM BRENNAN