

REPORT OF THE ABA TASK FORCE FOR AMERICAN DEMOCRACY

September 10, 2025

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I. Introduction

Our American democracy is under threat. Many believe the rule of law is under threat, and that we are, in fact, in the midst of a constitutional crisis. Even the current administration must confess that it is determined to push the bounds of legal and constitutional norms.

The American electorate voted for this not once, but twice. Why do so many of us want such an extreme, unorthodox brand of leadership?

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Stoked by false, overheated, and deeply partisan rhetoric from political opportunists, media outlets, and social media, Americans have become disillusioned and distrustful toward institutions of our democracy.

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Many of our political leaders, in turn, pander to these sentiments to obtain and maintain elective office. Legislators at the federal and state levels represent gerrymandered districts drawn by politicians themselves. This incentivizes office holders to take extreme positions to survive challenges from the extreme right or left in party primaries.

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I. Introduction

In developing this report and recommendations over the last two years, the Task Force found itself continually absorbed in one crisis after another, only to find out that our efforts to respond were OBE a week or a month later. Therefore, the Task Force has concluded that the most meaningful recommendations it can deliver are ones that address the factors *underlying* the current crises.

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RE-INVIGORATE AMERICAN CIVICS EDUCATION

The Task Force believes our nation's lack of funding for and declining emphasis on civics instruction has contributed to a growing distrust in democratic institutions, especially among younger generations who believe our democracy does not deliver for them. Knowledge of basic civics among the American populace has declined in recent years. The federal government cannot and should not mandate any specific school curriculum or programming. However, it can and should invest in civics education in schools.

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CITIZEN REDISTRICTING COMMISSIONS

The Task Force endorses the ABA's own prior recommendations for redistricting reform and supports efforts underway in various states to create independent citizen redistricting commissions. As of this writing, eighteen states—including Arizona, California, Colorado, and Michigan—have some form of redistricting commission, but they vary widely in structure and composition.

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OPEN, NONPARTISAN PRIMARIES; RANKED CHOICE VOTING; FUSION VOTING

The Task Force believes states should consider whether one, two, or all three of the following voting reforms would promote democracy in their particular circumstances: (1) open, nonpartisan primaries; (2) rank-choice voting; and (3) fusion voting. These measures reward the candidates with the broadest electoral appeal. Depending on the jurisdiction, these changes can be adopted through legislation or a ballot measure.

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INCREASE ELECTION WORKER SAFETY

The Task Force endorses federal funding by the Department of Homeland Security to improve election security; state-level enhancements of the criminal penalties for interfering with election workers' official duties (*see, e.g.,* Maine); state-level legislation that expands the legal protections for election workers beyond polling locations (*see, e.g.,* Colorado and Virginia); and guidance to local law enforcement to improve investigations of criminal conduct directed at election workers.

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INCREASE ACCESS TO VOTING

The Task Force endorses efforts to expand the pool of registered voters by adopting automatic voter registration; removing barriers to sameday voter registration; ensuring that voter registration lists are regularly maintained; and ensuring that individuals can easily check their voter registration status. The Task Force endorses federal legislation offered in 2024, the “Election Day Holiday Act.” Further, we encourage states to allow voters to use more than one form of identification document to vote, to standardize deadlines and procedures for early and mail-in voting, and to improve processes for curing ballot errors.

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IMPROVE THE CYBERSECURITY OF OUR DEMOCRATIC PROCESS

The Task Force encourages efforts to continue to enhance the cyber resilience of state and federal election infrastructure. This includes transitioning nationwide to hand-marked paper ballot voting machines and affirming election results with post-election risk-limiting auditing. The Task Force also supports voting machines that produce paper trails to insulate votes from electronic tampering and facilitate post-election audits.

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REFINE THE ROLE OF THE PRESS AND SOCIAL MEDIA IN PROMOTING OUR DEMOCRACY

The Task Force encourages news outlets to continue to develop and employ responsible election-night reporting practices. Most urgently, we support efforts at the federal level to adopt laws like those in Wisconsin and Arizona that require disclosure of campaign material that includes AI-generated content.

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ENHANCE THE OBLIGATIONS OF LAWYERS IN OUR DEMOCRACY

The Task Force recommends, among other things, that the various state-level oaths of admission for attorneys be amended to include a commitment to upholding democracy and the rule of law, and that the ABA, state and local bar associations, state supreme courts and other state-level regulatory bodies provide further guidance concerning the special obligations of lawyers to respect and promote the rule of law, our democracy, the courts and court orders.

REPORT OF THE ABA TASK FORCE ON CURBING FRIVOLOUS ELECTION-RELATED LAWSUITS

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CURB FRIVOLOUS ELECTION-RELATED LAWSUITS

The Task Force recommends legislation at the federal and state levels to require election challenges to go before three-judge panels accompanied by an expedited appellate pathway, similar to the three-judge panels that currently hear challenges under the Voting Rights Act. The Task Force also recommends that states explore changes in law that allow for special motions to dismiss, cost shifting, and potential sanctions if a party is found to have filed a frivolous election-related lawsuit, like anti-SLAPP laws that deter frivolous defamation suits currently on the books in most states.

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ENHANCE LAW SCHOOL TRAINING ON DEMOCRACY AND THE RULE OF LAW

The Task Force endorses the June 18, 2024, letter signed by over 100 law school deans, committing to a greater focus on the rule of law in law school courses and other offerings. We agree with the goal to train the next generation of lawyers to sustain our constitutional democracy and the rule of law.

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DISAGREE BETTER

Finally, Task Force member and former federal appellate Judge Thomas Griffith is a strong advocate for “Disagree Better,” an initiative launched by Utah Governor Spencer Cox in July 2023. The essence of Disagree Better is to encourage “disagreement with civility and kindness.” The Task Force applauds Disagree Better and recommends similar initiatives within legislatures, town councils, bar associations, colleges and universities, high schools, churches, community groups, and beyond.

Our democracy is in crisis.

The United States is facing a dangerous slide toward authoritarianism that has unraveled other democracies, including efforts to undermine checks and balances, capture or intimidate the courts, silence the press, bully businesses and consolidate power. Judges are being threatened with impeachment and violence simply for doing their jobs. These attacks on our rights and freedoms must be met with equal resolve—by mobilizing attorneys as respected, nonpartisan advocates to defend equal treatment under the law, and to educate and catalyze a growing number of Americans to do the same.

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