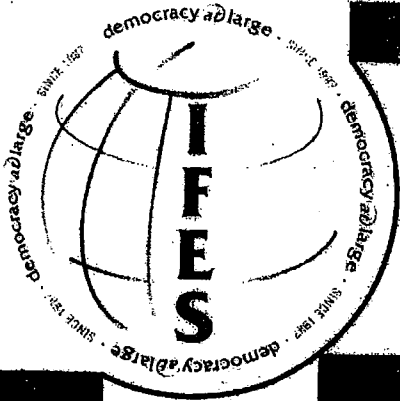


DOCUMENTS NUMBERED 11985-15701



IFES POLITICAL FINANCE WHITE PAPER SERIES

PROSECUTION OF ELECTORAL FRAUD UNDER UNITED STATES FEDERAL LAW

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011985

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A. INTRODUCTION

This paper will explore the prosecution of election fraud in the United States Federal Judicial System. It was prepared to accompany remarks by the author at a series of seminars on electoral corruption and vote buying that took place in Abuja, Nigeria on January _____, 2006 through January ____ 2006.

The subjects covered in this paper include defining what sort of conduct is currently considered to be criminally actionable in the United States, the historical background for the role of the criminal prosecutor in this area of public corruption offense, and the various federal laws and judicial precedents that govern the prosecution of this type of crime in the United States.

In the United States, electoral administration is primarily a State rather than a federal responsibility. The federal government has authority over electoral matters only where:

- Federal candidates are standing for election in the election where a corrupt act occurs, or
- A federal instrumentality such as the United States Mails or interstate telecommunications facilities are employed to facilitate the fraud, or
- The fraud involves the necessary participation of election or other public officials “acting under color of law” in a manner that implicates the right to Due Process and Equal Protection guaranteed by the 124th Amendment to the United States Constitution, or
- The fraud is motivated by an intent to deprive to vote to classes of voters whose voting rights have been specifically and expressly secured by the United States Constitution, e.g. African-Americans, women, young people who have attained the age of 18, and certain language minorities.

Despite these significant limitations, the task of prosecuting crimes against electoral processes has historically fallen principally to the federal government. Thus, issues of “federalism” (i.e., in this paper the relation of federal to State authority over electoral matters) play a significant role in the overall criminal enforcement of election crimes. Although Nigeria is, like the United States, a federal republic, the extent to which the same

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The views expressed in this paper are solely those of its author. They do not necessarily reflect those of the United States Department of Justice on the issues addressed. This paper creates no procedural or substantive rights for private parties, and cannot be relied upon by those whose circumstance may fall within the discussion herein.

federalism issues exist in there is not known to the author of this paper at the time it was prepared. But since these issues play such an important role in the prosecution of election crimes in the United States, they will be addressed, where appropriate, in this paper.

Finally, the United States follows a common law tradition in its jurisprudence. This means that the application of statutory laws to specific factual situations is interpreted by the Courts, and that these judicial decisions have precedential effect on future situations where the same statutes and laws are involved. The texts of the federal criminal laws dealing with electoral fraud that are discussed in this paper are presented in an Appendix. However, in the common law jurisprudential system that prevails in the United States, the meaning of a particular statutory text, and its application to a given set of facts, is governed not just by the statutes words but also how those words have been interpreted by the courts. For this reason, the discussion that follows contains annotations to the pertinent judicial and case authorities that give the statutes discussed the meanings the author has attributed to them in the text.

B. HISTORICAL BACKGROUND

Federal concern over the integrity of the franchise in the United States has historically had two distinct points of focus. One -- to secure to the general public elections that are not corrupted -- is the subject of this chapter. The other -- to ensure there is no discrimination against minorities at the ballot box -- involves entirely different constitutional and federal interests, and is supervised by the Justice Department's Civil Rights Division.

Federal interest in the integrity of the franchise was first manifested immediately after the Civil War. Between 1868 and 1870, Congress passed the Enforcement Acts, which served as the basis for federal activism in prosecuting corruption of the franchise until most of them were repealed in the 1890s. See *In re Coy*, 127 U.S. 731 (1888); *Ex parte Yarborough*, 110 U.S. 651 (1884); *Ex parte Siebold*, 100 U.S. 371 (1880).

Many of the Enforcement Acts had broad jurisdictional predicates which allowed them to be applied to a wide variety of corrupt election practices as long as a federal candidate was on the ballot. In *Coy*, the Supreme Court held that Congress had authority under the Constitution's Necessary and Proper Clause to regulate any activity during a mixed federal/state election which exposed the federal election to potential harm, whether that harm materialized or not. *Coy* is still good law. *United States v. Carmichael*, 685 F.2d 903, 908 (4th Cir. 1982), cert. denied, 459 U.S. 1202 (1983); *United States v. Mason*, 673 F.2d 737, 739 (4th Cir. 1982); *United States v. Malmay*, 671 F.2d 869, 874-75 (5th Cir. 1982); *United States v. Bowman*, 636 F.2d 1003, 1001 (5th Cir. 1981); *United States v. Cole*, 41 F.3d 303 (7th Cir. 1994); *United States v. McCrainie*, 169 F.3d 763 (11th Cir. 1999).

After Reconstruction, federal activism in election matters retrenched. The repeal of most of the Enforcement Acts eliminated the statutory tools that had encouraged federal activism in election fraud matters. Two surviving provisions of these Acts, now embodied in 18 U.S.C. " 241 and 242, covered only intentional deprivations of rights guaranteed directly by the Constitution or federal law. The courts during this period held that the Constitution directly conferred a right to vote only for federal officers, and that conduct aimed at corrupting nonfederal contests was not prosecutable in federal courts. See *United States v. Gradwell*, 243 U.S. 476 (1917); *Guinn v. United States*, 238 U.S. 347 (1915). Federal attention to election fraud was further limited by case law holding that primary elections were not part of the official election process, *United States v. Newberry*, 256 U.S. 232 (1918), and by cases like *United States v. Bathgate*, 246 U.S. 220 (1918), which read the entire subject of vote buying out of federal criminal law, even when it was directed at federal contests.

In 1941, the Supreme Court reversed direction, overturning *Newberry*. The Court recognized that primary elections are an integral part of the process by which candidates are elected to office. *United States v. Classic*, 313 U.S. 299 (1941). *Classic* changed the judicial attitude toward federal intervention in election matters, and ushered in a new period of federal activism. Federal courts now regard the right to vote in a fairly conducted

election as a constitutionally protected feature of United States citizenship. *Reynolds v. Sims*, 377 U.S. 533 (1964).

In 1973, the use of section 241 to address election fraud began to expand. *United States v. Anderson*, 481 F.2d 685 (4th Cir. 1973), *aff'd* on other grounds, 417 U.S. 211 (1974). Since then, this statute has been successfully applied to prosecute certain types of local election fraud. *United States v. Howard*, 774 F.2d 838 (7th Cir. 1985); *United States v. Olinger*, 759 F.2d 1293 (7th Cir.), *cert. denied*, 474 U.S. 839 (1985); *United States v. Stollings*, 501 F.2d 954 (4th Cir. 1974); *United States v. Wadena*, 152 F.3d 851 (8th Cir. 1998).²

The federal mail fraud statute, 18 U.S.C. ' 1341,³ was used successfully for decades to enable federal prosecutors to reach frauds that took place in purely local elections, under the theory that such schemes defrauded citizens of their right to fair and honest elections. *United States v. Clapps*, 732 F.2d 1148 (3d Cir.), *cert. denied*, 469 U.S. 1085 (1984); *United States v. States*, 488 F.2d 761 (8th Cir. 1973), *cert. denied*, 417 U.S. 909 (1974). However, use of this mail fraud theory to address election fraud has been barred since 1987, when the Supreme Court held that the statute did not apply to schemes to defraud someone of intangible rights (such as the right to honest elections). *McNally v. United States*, 483 U.S. 350 (1987). Congress responded to *McNally* the following year by enacting a provision which specifically defined section 1341 to include schemes to defraud someone of "honest services." 18 U.S.C. ' 1346. However, unfortunately, section 1346 did not restore use of section 1341 for most election crimes, since they do not involve the element of "honest services."

Finally, over the past forty years Congress has enacted new criminal laws with broad jurisdictional bases to combat false registrations, vote buying, multiple voting, and fraudulent voting in elections where a federal candidate is on the ballot. 42 U.S.C. " 1973i(c), 1973i(e), 1973 gg-10. These statutes rest on Congress's power to regulate federal elections (art. I, § 4) and on its power under the Necessary and Proper Clause (art. I, § 8, cl. 18) to enact laws to protect the federal election process from the potential of corrupt abuse. The federal jurisdictional predicate underlying these statutes is satisfied as long as either the name of a federal candidate is on the ballot or the fraud involves corruption of the voter registration process in a state where one registers to vote simultaneously for federal as well other offices. *Bowman, Malmay, Mason, supra*; *United States v. Garcia*, 719 F.2d 99 (5th Cir. 1983); *United States v. 411 F3d 643* (6th Cir. 2005); *United States v. Olinger*, 759 F.2d 1293 (7th Cir.), *cert. denied*, 474 U.S. 839 (1985); *United States v. Howard*, 774 F.2d 838 (7th Cir. 1985); *United States v. McCrainie*, 169F.3d 723 (11th Cir. 1999); *United States v. Barker*, 514 F.2d 1077 (7th Cir. 1975); *United States v. Ciancuilli*, 482 F.Supp. 585 (E.D. PA. 1979).

²As indicated in the cited cases, section 241 has been used to prosecute election fraud that affects the vote for federal officials, as well as vote fraud directed at non-federal candidates that involves the corruption of public officials — most often election officers — acting under color of law: *i.e.*, ballot-box stuffing schemes. This latter type of scheme will be referred to in this book as a "public scheme." A scheme that does not involve the necessary participation of corrupt officials acting under color of law but which affects the tabulation of votes for federal candidates will be referred to as a "private scheme."

³The Mail Fraud statute was enacted originally in 1872. It prohibits using the United States Mail, which in the United States is a federal instrumentality over which the federal Congress has legislative jurisdiction, to further "schemes to defraud." Its original purpose was to prevent the mails from being used to further schemes to defraud victims of money. However, over the ensuing decades, federal courts in the United States interpreted the words "scheme to defraud" as used in this statute to encompass many additional varieties of dishonest behavior, including most activities aimed at corrupting elections.

C. WHAT IS ELECTION FRAUD? (Defining the Term)

1. In General

Election fraud involves a substantive irregularity relating to the voting act -- such as bribery, intimidation, or forgery -- which has the potential to taint the election itself. During the past century and a half, Congress and the federal courts have articulated the following constitutional principles concerning the right to vote in the United States. Any activity intended to interfere corruptly with any of these principles may be actionable as a federal crime:

- All qualified citizens are eligible to vote.
- All qualified voters have the right to have their votes counted fairly and honestly.
- Invalid ballots dilute the worth of valid ballots and therefore will not be counted.
- Every qualified voter has the right to make a personal and independent election decision.
- Qualified voters may opt not to participate in an election.
- Voting shall not be influenced by bribery or intimidation.

Simply put, then, election fraud⁴ is conduct intended to corrupt:

- (a) the process by which elections are conducted and ballots are obtained, marked, or tabulated;
- (b) the process by which election results are canvassed and certified; or
- (c) the process by which voters are registered.

On the other hand, schemes that involve corruption of other political processes (i.e., political campaigning, circulation of nominating petitions, awarding public works projects to otherwise deserving objects on the eve of elections, transporting voters to the polls, etc.) do not normally serve as the basis for a federal election crime.

2. Conduct that constitutes federal election fraud⁵

The following activities provide a basis for federal prosecution under the statutes referenced in each category:

Paying voters to register to vote, or to participate in elections, where a federal candidate is on the ballot (42 U.S.C. § 1973i(c), 18 U.S.C. § 597), or through the use of the mails in those states where vote buying is a "bribery" offense (18 U.S.C. § 1952), as well as in federal elections⁶ in those States where purchased

⁴ Whether any of these types of election fraud is actionable under federal criminal law is discussed below.

⁵ As used throughout this book, the terms "federal election fraud" and "election fraud" mean fraud relating to an election that can be reached under a federal criminal statute. As will be discussed below, this term is not necessarily limited to frauds aimed at federal elections.

⁶ For purposes of this book, the term "federal election" means an election where the name of a federal candidate is on the ballot, regardless of whether there is proof that the fraud caused a vote to be cast for the federal candidate. A

registrations or votes are void under applicable state election law (42 U.S.C. § 1973gg-10). In the United States, the crime of vote buying is confined to situations where something of pecuniary value is offered or given to an individual for the purpose of stimulating or rewarding participation in elections. It does not cover the theft or use of government resources to advance electoral ends, although such conduct can be prosecuted under other prosecutive theories dealing with theft, embezzlement or fraud.

- Preventing voters from participating in elections where a federal candidate is on the ballot, or when done "under color of law" in any election, federal or nonfederal (18 U.S.C. §§ 241, 242).
- Voting for individuals in federal elections who do not personally participate in, and assent to, the voting act attributed to them, or impersonating voters or casting ballots in the names of voters who do not vote in federal elections (42 U.S.C. §§ 1973i(c), 1973i(e), 1973gg-10).
- Intimidating voters through physical duress in any type of election (18 U.S.C. § 245(b)(1)(A)), or through physical or economic threats in connection with their registering to vote or their voting in federal elections (42 U.S.C. § 1973gg-10), or to vote for a federal candidate (18 U.S.C. § 594). If the victim is a federal employee, intimidation in connection with any election, federal or non-federal, is covered (18 U.S.C. § 610).
- Malfeasance by election officials acting "under color of law" to do such things as dilute valid ballots with invalid ones (ballot-box stuffing), render false tabulations of votes, or prevent valid voter registrations or votes from being given effect in any election, federal or nonfederal (18 U.S.C. §§ 241, 242), as well as in elections where federal candidates are on the ballot (42 U.S.C. § 1973i(c), 1973i(e), 1973gg-10).

"non-federal election is one where no federal candidate was on the ballot.

- Submitting fictitious names on voter registration rolls and thereby qualifying the ostensible voters to vote in any election, nonfederal or federal (42 U.S.C. §§ 1973i(c), 1973gg-10).⁷
- Knowingly procuring eligibility to vote for federal office by persons who are not entitled to the vote under applicable state law, notably persons who have committed serious crimes (approximately 40 states)(42 U.S.C. §§ 1973i(c), 1973gg-10), and persons who are not United States citizens (currently all states)(42 U.S.C. §§ 1973i(c), 1973gg-10; 18 U.S.C. §§ 1015(f) and 611).
- Knowingly making a false claim of United States citizenship to register to vote or to vote in any election (18 U.S.C. § 1015(f)), or falsely and willfully claiming US citizenship for, inter alia registering or voting in any election (18 U.S.C. § 911).
- Providing false information concerning a person's name, address, or period of residence in a voting district in order to establish that person's eligibility to register or to vote in a federal election (42 U.S.C. §§ 1973i(c), 1973gg-10).
- Causing the production of voter registrations that qualify alleged voters to vote for federal candidates, or the production of ballots in federal elections, that the actor knows are materially defective under applicable state law (42 U.S.C. § 1973gg-10).

⁷ The criminal statutes addressing registration fraud are confined to those committed in registering to vote for federal candidates. However, election registration is "unitary" in all 50 States in the sense that a person registers only once to become eligible to cast ballots for both federal and non-federal candidates. Therefore false information given to establish eligibility to register to vote is actionable federally regardless of the type of election that motivated the subjects to act. See, e.g., United States v. Ciancuilli, 482 F. Supp. 585 (E.D. Pa. 1979).

- Using the United States mails, or interstate wire facilities, to obtain the salary and emoluments of an elected official through any of the activities mentioned above (18 U.S.C. §§ 1341, 1343). At the time this article was written, this so-called "salary theory" of mail and wire fraud had not yet received wide judicial support. However, where it has been accepted, it does permit federal prosecutive jurisdiction to be asserted over an election fraud scheme based on the use of a federal instrumentality to carry it out, and regardless of the type of election involved: federal or nonfederal.⁸
- Ordering, keeping, or having under one's authority or control any troops or armed men at any polling place in any election, federal or nonfederal. The actor must be an active civilian or military officer or employee of the United States government. (18 U.S.C. § 592).

3. Conduct that does not constitute federal election fraud

Various types of conduct that might adversely affect the election of a federal candidate may not constitute federal election crimes, despite what in many instances may be their reprehensible character. For example, a federal election crime does not normally involve irregularities relating the accuracy of campaign literature, campaigning too close to the polls, the process by which a candidate obtains the withdrawal of an opponent, transporting voters to the polls, and the negligent failure of election officers to comply with state-mandated voting procedures.

Also, "facilitation payments," that is things of value given to voters to make it easier for the voter to cast a ballot but which are not intended to stimulate or reward the voting act itself (e.g., a ride to the polls, a stamp to mail in an absentee ballot) do not ordinarily involve a federal crime. Examples who have already made up their minds to vote Federal election crime.

Finally, it is not a federal crime in the United States to time the award of otherwise justified public works projects of other similar government programs close to elections, or to target such government grants to areas where the political competition is considered to be "close." The crime of "vote buying" in the United States is confined to giving something of pecuniary value, or offering to give something of pecuniary value, to individual voters in order to stimulate recipient to, or reward the recipient for, participating in voting activity. However, where the sole reason for a public grant award can be proven to have been to advance the electoral prospects of the incumbent political party, ad for example where there is no valid [public justification for a grant award other than achieving partisan political advantage, federal offenses can arise.

4. Conditions conducive to election fraud

Most election fraud is aimed at corrupting elections for local offices, which control or influence patronage positions. Election fraud schemes are thus often linked to such other crimes as protection of illegal activities, corruption of local governmental processes, and patronage abuses.

Election fraud does not normally occur in jurisdictions where one political faction enjoys widespread support among the electorate, because in such a situation it is usually unnecessary or impractical to resort to election fraud

⁸ The "McNally-fix" statute, 18 U.S.C. § 1346, did not restore use of the mail and wire statutes for election fraud schemes because its "intangible rights" concept is confined to schemes that involve a "deprivation of honest services," a motive not usually found in election fraud schemes. Thus, the utility of these statutes to address election fraud generally is confined to schemes where the proof shows that the defendant intended, as an objective of the scheme, to obtain for the "favored" candidate the salary and emoluments of an elected position. See generally, *United States v. Webb*, 689 F. Supp. 703 (W.D. Ky. 1988); *Ingber v. Enzor*, 664 F. Supp. 814 (S.D.N.Y.), *aff'd*, 841 F.2d 450 (2d Cir. 1988).

WIKI SOURCE: https://www.wikisource.org/wiki/United_States_Federal_Law

in order to control local public offices. Instead, election fraud occurs most frequently where there are fairly equal political factions, and where the stakes involved in who controls public offices are weighty -- as is often the case where patronage jobs are a major source of employment, or where illicit activities are being protected from law enforcement scrutiny. In sum, election fraud is most likely to occur in electoral jurisdictions where there is close factional competition for an elected position that matters.

5. Voter participation versus non-voter participation cases

As a practical matter, election frauds fall into two basic categories: those in which individual voters do not participate in the fraud, and those in which they do. The investigative approach and prosecutive potential are different for each type of case.

a) Election frauds not involving the participation of voters

The first category involves cases where voters do not participate, in any way, in the voting act attributed to them. These cases include ballot box stuffing, ghost voting, and "nursing home" frauds.⁹ All such matters are potential federal crimes. Proof of these crimes depends largely on evidence generated by the voting process, or on handwriting exemplars taken from persons who had access to voting equipment and thus the opportunity to misuse it. Some of the more common ways these crimes are committed include:

- Placing fictitious names on the voter rolls. This "deadwood" allows for fraudulent ballots, which can be used to stuff the ballot box.
- Casting bogus votes in the names of persons who did not vote.
- Obtaining and marking absentee ballots without the active input of the voters involved. Absentee ballots are particularly susceptible to fraudulent abuse because, by definition, they are marked and cast outside the presence of election officials.
- Falsifying vote tallies.

b) Election frauds involving the participation of voters

The second category of election frauds includes cases in which the voters do participate, at least to some extent, in the voting acts attributed to them. Common examples include:

- Vote buying schemes.

⁹ An example of a nursing home fraud is *United States v. Odom*, 736 F.2d 104 (4th Cir. 1984), which involved a scheme by local law enforcement officials and others to vote the absentee ballots of mentally incompetent residents of a nursing home.

- Absentee ballot frauds.
- Voter intimidation schemes.
- Migratory-voting (or floating-voter) schemes.
- Voter "assistance" frauds, in which the wishes of the voters are ignored or not sought by an offender who purports to be "helping" the voter vote.

Successful prosecution of these cases usually requires the cooperation and testimony of the voters whose ballots were corrupted. This requirement presents several difficulties. An initial problem is that the voters themselves may be technically guilty of participating in the scheme. However, because these voters can often be considered victims, the Justice Department has adopted a practice of declining to prosecute them.

The second difficulty encountered in cases where voters participate is a more significant hurdle. Any participation by the voter, no matter how slight, may preclude prosecution or make its success less likely. The voter's presence alone may suggest that he or she "consented" to the defendant's conduct (marking the ballot, taking the ballot, choosing the candidates, etc.). Compare *United States v. Salisbury*, 983 F.2d 1369 (6th Cir. 1993) (leaving unanswered the question whether a voter who signs a ballot envelope at the defendant's instruction but is not allowed to choose the candidates has consented to having the defendant mark his or her ballot), with *United States v. Cole*, 41 F.3d 303 (7th Cir. 1994) (finding that voters who merely signed ballots subsequently marked by the defendant were not expressing their own electoral preferences).

While the presence of the ostensible voter when another marks his or her ballot does not negate whatever crime might be occurring, it may increase the difficulty of proving the crime. This difficulty is compounded by the fact that those who commit this type of crime generally target vulnerable members of society, such as persons who are uneducated, socially disadvantaged, or with little means of livelihood -- precisely the type of person who is likely to be subject to manipulation or intimidation. Therefore, in cases where the voter is present when another person marks his or her ballot, the evidence must show that the defendant either procured the voter's ballot through means that were themselves corrupt (such as bribery or threats), or that the defendant marked the voter's ballot without the voter's consent or input. See *United States v. Boards*, 10 F.3d 587 (8th Cir. 1993); *Salisbury*; *Cole*.

D. STATUTES¹⁰

1. Conspiracy against rights: 18 U.S.C. 241

Section 241 makes it unlawful for two or more persons to "conspire to injure, oppress, threaten, or intimidate any person in any state, territory or district in the free exercise or enjoyment of any right or privilege secured by the Constitution or laws of the United States." Violations are punishable by imprisonment for up to ten years or, if death results, for any term of years or for life.

The Supreme Court long ago recognized that the right to vote for federal offices is among the rights secured by Article I, Sections 2 and 4, of the Constitution, and hence is protected by section 241. *United States v. Classic*, 313 U.S. 299 (1941); *Ex parte Yarborough*, 110 U.S. 651 (1884). Although the statute was enacted just after the Civil War to address efforts to deprive the newly emancipated slaves of the basic rights of citizenship, such

¹⁰ The text of the statutes discussed below is printed in Appendix A. Each statute carries, in addition to the prison term noted, fines applicable under 18 U.S.C. 3571.

as the right to vote, it has been interpreted to include any effort to derogate any right which flows from the Constitution or from federal law.

Section 241 has been an important statutory tool in election crime prosecutions. Originally held to apply only to schemes to corrupt elections for federal office, it has recently been successfully applied to non-federal elections as well, provided that state action was a necessary feature of the fraud. This state action requirement can be met not only by the participation of poll officials, but by the activities of persons who clothe themselves with the appearance of state authority by dressing like an authority figure, such as with uniforms, credentials, and badges. *Williams v. United States*, 341 U.S. 97 (1951).

Section 241 embraces conspiracies to stuff a ballot box with forged ballots, *United States v. Saylor*, 322 U.S. 385 (1944); *United States v. Mosley*, 238 U.S. 383 (1915); to impersonate qualified voters, *Crolich v. United States*, 196 F.2d 879 (5th Cir.), cert. denied, 344 U.S. 830 (1952); to alter legal ballots, *United States v. Powell*, 81 F. Supp. 288 (E.D. Mo. 1948); to fail to count votes and to alter votes counted, *Ryan v. United States*, 99 F.2d 864 (8th Cir. 1938), cert. denied, 306 U.S. 635 (1939); *Walker v. United States*, 93 F.2d 383 (8th Cir. 1937), cert. denied, 303 U.S. 644 (1938); to prevent the official count of ballots in primary elections, *Classic*; to destroy ballots, *United States v. Townsley*, 843 F.2d 1070 (8th Cir. 1988); to destroy voter registration applications, *United States v. Haynes*, 977 F.2d 583 (6th Cir. 1992) (table)(available at 1992 WL 296782); to illegally register voters and cast absentee ballots in their names, *United States v. Weston*, 417 F.2d 181 (4th Cir. 1969), cert. denied, 396 U.S. 1062 (1970); *United States v. Morado*, 454 F.2d 167 (5th Cir.), cert. denied, 406 U.S. 917 (1972); *Fields v. United States*, 228 F.2d 544 (4th Cir. 1955), cert. denied, 350 U.S. 982 (1956); and to injure, threaten, or intimidate a voter in the exercise of his right to vote, *Wilkins v. United States*, 376 F.2d 552 (5th Cir.), cert. denied, 389 U.S. 964 (1967).

The election fraud conspiracy need not be successful to violate this statute. *United States v. Bradberry*, 517 F.2d 498 (7th Cir. 1975). Nor need there be proof of an overt act. *Williams v. United States*, 179 F.2d 644 (5th Cir. 1950), aff'd on other grounds, 341 U.S. 70 (1951); *Morado*. Section 241 reaches conduct affecting the integrity of the federal election process as a whole, and does not require fraudulent action with respect to any particular voter. *United States v. Nathan*, 238 F.2d 401 (7th Cir. 1956), cert. denied, 353 U.S. 910 (1957).

On the other hand, section 241 does not reach schemes to corrupt the balloting process through voter bribery, *United States v. Bathgate*, 246 U.S. 220 (1918), even schemes that involve poll officers to ensure that the bribed voters mark their ballots as they were paid to, *United States v. McLean*, 808 F.2d 1044 (4th Cir. 1987) (noting, however, that section 241 may apply where vote buying occurs in conjunction with other corrupt practices, such as ballot box stuffing).

Section 241 prohibits only conspiracies to interfere with rights flowing directly from the Constitution or federal statutes. This element has led to considerable judicial speculation over the extent to which the Constitution protects the right to vote for candidates running for nonfederal offices. *Oregon v. Mitchell*, 400 U.S. 112 (1970); *Reynolds v. Sims*, 377 U.S. 533 (1964); *Blitz v. United States*, 153 U.S. 308 (1894); *In re Coy*, 127 U.S. 731 (1888); *Ex parte Siebold*, 100 U.S. 371 (1880). See also *Duncan v. Poythress*, 657 F.2d 691 (5th Cir. 1981), cert. dismissed, 459 U.S. 1012 (1982). While dicta in *Reynolds* casts the parameters of the federally protected right to vote in extremely broad terms, in a ballot fraud case ten years later the Supreme Court specifically refused to decide whether the federally secured franchise extended to nonfederal contests. *Anderson v. United States*, 417 U.S. 211 (1974).

The use of section 241 in election fraud cases has generally been confined to two types of situations: "public schemes" and "private schemes."

A public scheme is one which involves the necessary participation of a public official acting under the color of law. In election fraud cases, the public official involved in the scheme is usually an election officer whose participation involves corruption of his office to dilute valid ballots with invalid ballots or to otherwise corrupt

an honest vote tally in derogation of the equal protection and due process clauses of the 14th Amendment. See, e.g. *United States v. Anderson*, 482 F.2d 685 (4th Cir. 1973, aff'd on other grounds, 417 U.S. 211 (1974)); *United States v. Stollings*, 501 F.2d 954 (4th Cir. 1974); *United States v. Olinger*, 759 F.2d 1293 (7th Cir.), cert. denied, 474 U.S. 839(1985) *United States v. Howard*, 774 F.2d 838 (7th Cir. 1985); *United States v. Townsley*, 843 F.2d 1070 (8th Cir. 1988); *United States v. Haynes*, 799 F.2d 583 (6th Cir. 1992)(table)(available at 1992 WL 296782). Another case involving a public scheme turned on the necessary participation of a notary public who falsely notarized forged voter signatures on absentee ballot materials in an Indian tribal election. *United States v. Wadena*, 152 F.3d 831 (8th Cir. 1998), cert. denied, 526 U.S. 517 (1999).

A private scheme is a pattern of voter fraud which does not involve the necessary participation of a public official acting under color of law, but which can be shown factually to have adversely affected the ability of qualified voters to vote in elections where federal candidates were on the ballot. Examples of private schemes include voting fraudulent ballots in mixed elections, and schemes to thwart get-out-the-vote or ride-to-the-polls activities of political factions or parties through such methods as jamming telephone lines or vandalizing motor vehicles.

Public schemes may be prosecuted under section 241 regardless of the nature of the election with respect to which the conspiracy occurs, that is, elections with or without a federal candidate. On the other hand, private schemes can be prosecuted under section 241 only when the objective of the conspiracy was to corrupt a federal election or when the scheme can be shown to have affected, directly or indirectly, the vote count for a federal candidate, as for example would occur where fraudulent ballots were cast for an entire party ticket that included a federal office.

2. Deprivation of rights under color of law: 18 U.S.C. § 242

Section 242, also enacted as a post-Civil War statute, makes it unlawful for anyone acting under color of law, statute, ordinance, regulation, or custom to willfully deprive a person of any right, privilege, or immunity secured or protected by the Constitution or laws of the United States. Violations are misdemeanors unless bodily injury occurs, in which case the penalty is ten years, or unless death results, in which case imprisonment may be for any term of years or for life.

Prosecutions under section 242 need not show the existence of a conspiracy. However, the defendants must have acted illegally "under color of law", i.e., the case must involve a public scheme, as discussed above. This element does not require that the defendant be a de jure officer or a government official; it is sufficient if he or she jointly acted with state agents in committing the offense, *United States v. Price*, 383 U.S. 787 (1966), or if his or her actions were made possible by the fact that they were clothed with the authority of state law, *United States v. Williams*, 341 U.S. 97 (1951); *United States v. Classic*, 313 U.S. 299 (1941).

Because a section 242 violation can be a substantive offense for election fraud conspiracies prosecutable under section 241, the cases cited in the discussion of section 241 apply to section 242.

3. False information in, and payments for, registering and voting: 42 U.S.C. § 1973i(c)

Section 1973i(c) makes it unlawful, in an election in which a federal candidate is on the ballot, to knowingly and willfully (1) give false information as to name, address, or period of residence to an election official for the purpose of establishing one's eligibility to register or to vote; (2) pay, offer to pay, or accept payment for registering to vote or for voting; or (3) conspire with another person to vote illegally. Violations are punishable by imprisonment for up to five years.

a) The basis for federal jurisdiction¹¹

Congress added section 1973i(c) to the 1965 Voting Rights Act to ensure the integrity of the balloting process in the context of an expanded franchise. In so doing, Congress intended that section 1973i(c) have a broad reach. In fact, the original version of section 1973i(c) would have applied to all elections. However, because of constitutional concerns raised during congressional debate on the bill, the provision's scope was narrowed to elections including a federal contest. Section 1973i(c) rests Congress's power to regulate federal elections and on the Necessary and Proper Clause. U.S. Const. art. I, '4, art. I § 8, cl. 18. *United States v. Slone*, 411 F.3d 643 (5th Cir. 2005); *United States v. Bowman*, 636 F.2d 1003 (5th Cir. 1981); *United States v. Malmay*, 671 F.2d 869 (5th Cir. 1982); *United States v. Carmichael*, 685 F.2d 903 (4th Cir. 1982), cert. denied, 459 U.S. 1202 (1983); *United States v. Cole*, 41 F.3d 303 (7th Cir. 1994); *United States v. McCranie*, 169 F.3d 723 (11th Cir. 1999); and *United States v. Cianciulli*, 482 F. Supp. 585 (E.D. Pa. 1979).

Section 1973i(c) has been held to protect two distinct aspects of a federal election: the actual results of the election, and the integrity of the process of electing federal officials. *United States v. Cole*, 41 F.3d 303 (7th Cir. 1994). In *Cole*, the court held that federal jurisdiction is satisfied so long as single federal candidate is on the ballot -- even if the federal candidate is unopposed -- because fraud in a mixed election automatically has an impact of the integrity of the election. See also *United States v. McCranie*, 169 F.3d 723 (11th Cir. 1999), and *United States v. Slone*, 411 F.3d 643 (6th cir. 2005), both of which followed *Cole* and achieved the same result.

Section 1973i(c) is particularly useful for two reasons. It eliminates the unresolved issue of the scope of the constitutional right to vote in matters not involving racial discrimination, and eliminates the need to prove that a given pattern of corrupt conduct had an actual impact on a federal election. It is sufficient under section 1973i(c) that a pattern of corrupt conduct took place during a mixed election; in that situation it is presumed that the fraud will expose the federal race to potential harm. *Slone*, supra, *Cole*, supra; *United States v. Olinger*, 759 F.2d 1293 (7th Cir.), cert. denied, 474 U.S. 839 (1985); *United States v. Saenz*, 747 F.2d 930 (5th Cir. 1984), cert. denied, 473 U.S. 906 (1985); *United States v. Garcia*, 719 F.2d 99 (5th Cir. 1983); *United States v. Carmichael*, 685 F.2d 903 (4th Cir. 1982), cert. denied, 459 U.S. 1202 (1983); *United States v. Mason*, 673 F.2d 737 (4th Cir. 1982); *United States v. Malmay*, 671 F.2d 869 (5th Cir. 1982); *United States v. Bowman*, 636 F.2d 1003 (5th Cir. 1981); *United States v. Sayre*, 522 F. Supp. 973 (W.D. Mo. 1981); *United States v. Simms*, 508 F. Supp. 1179 (W.D. La. 1979).

Cases arising under this statute which involve corruption of the process by which individuals register to vote, as distinguished from the circumstances under which they actually vote, present a different federal jurisdictional issue, which is easily satisfied. This is because voter registration in every State in the United States is "unitary" in the sense that one registers to vote only once in order to become eligible to vote for all candidates on the ballot, local, state, and federal. Although a state could choose to maintain separate registration lists for federal and non-federal elections, at the time this book was written no state had chosen to do so. Consequently, any corrupt act which impacts on the voter registration process and which can be reached under 42 U.S.C. 1973i(c) satisfies this

¹¹ The discussion presented here concerning the basis for federal jurisdiction under section 1973i(c) applies equally to its companion statute, 42 U.S.C. § 1973i(e), which addresses multiple voting. This is because the federal jurisdictional predicate is phrased precisely the same way in both statutes.

federal jurisdictional requirement. An excellent discussion of this issue is contained in *United States v. Ciancuilli*, 462 F. Supp. 585 (E.D. Pa. 1979).

b) False information to an election official

The "false information" provision of section 1973i(c) prohibits any person from furnishing certain false data to an election official to establish eligibility to register or vote. The statute applies to only three types of information: name, address, and period of residence in the voting district. False information concerning other factors (such as citizenship, felon status, and mental competence) are not covered by this provision.¹²

As just discussed, registration to vote is "unitary," in that a single registration qualifies the applicant to cast ballots for all elections. Thus, the jurisdictional requirement that the false information have been made to establish eligibility to vote in a federal election is satisfied automatically wherever a false statement is made to get one's name on the registration rolls. *United States v. Barker*, 514 F.2d 1077 (7th Cir. 1975); *Ciancuilli*, supra.

On the other hand, where the false data is furnished to poll officials for the purpose of enabling a voter to cast a ballot in a particular election (as when one voter attempts to impersonate another), it must be shown that a federal candidate was being voted upon at the time. In such situations, the evidence should show that the course of fraudulent conduct could have jeopardized the integrity of the federal race, or, at a minimum, that the name of a federal candidate was on the ballot. *Carmichael, Bowman, Malmay, McCrainie*, supra. See, e.g., *In re Coy*, 127 U.S. 731 (1888). Situations involving a voter impersonating another in order to vote for a non-federal candidate may be inadequate to establish federal jurisdiction. See *Blitz v. United States*, 153 U.S. 308 (1894).

In *United States v. Boards*, 10 F.3d 587 (8th Cir. 1993), the Eighth Circuit confirmed the broad reach of the "false information" provision of section 1973i(c). The defendants in this case, and their unidentified coconspirators, had obtained and marked the absentee ballots of other registered voters by forging the voters' names on ballot applications and directing that the ballots be sent to a post office box without the voters' knowledge. The district court granted post-verdict judgments of acquittal as to those counts in which the defendant's role was limited to fraudulently completing an application for an absentee ballot, based on its conclusions that (1) the statute did not extend to ballot applications, (2) the statute did not cover giving false information as to the names of real voters (as opposed to fictitious names), and (3) the defendants could not be convicted for completing the applications when others actually voted the ballots.

The Court of Appeals rejected each of these narrow interpretations of section 1973i(c). It held that an application for a ballot falls within the broad definition of "vote" in the Voting Rights Act, "because an absentee voter must first apply for an absentee ballot as a 'prerequisite to voting.'" 10 F.3d at 589 (quoting 42 U.S.C. ' 1973i(c)(1)). The Court also held that by using the names of real registered voters on the applications, the defendants "[gave] false information as to [their] name[s]" within the meaning of section 1973i(c). *Id.* Finally, the Court held that one of the defendants, whose role was limited to completing absentee ballot applications for ballots that others fraudulently voted, was liable under 18 U.S.C. ' 2 as an aider and abettor.

¹² Such matters might, however, be charged as conspiracies to encourage illegal voting under the conspiracy clause of section 1973i(c), as citizenship offenses under, *inter alia*, 18 U.S.C. 911 and § 1015(f), or under the broad "false information" provision of 42 U.S.C. § 1973gg-10. These statutes will be discussed below.

In *United States v. Smith*, 231 F.3d 800 (11th Cir. 2000), the Court of Appeals for the 11th Circuit held that each forgery of a voter's name on a ballot document or on an application for a ballot constituted a separate offense under the "false information as to name" clause of section 1973i(c).

Section 1973i(c)'s false information clause is particularly useful when the evidence shows that a voter's signature (name) was forged on an election-related document; e.g., when signatures on poll lists are forged by election officials who are stuffing a ballot box, when a voter's signature on an application for an absent ballot is forged, or where bogus voter registration documents are fabricated in order to get names on voter registries.

c) Commercialization of the vote -- Vote Buying

Vote buying is a particularly pernicious, and in some parts of the United States relatively common, type of electoral crime. This is because the cornerstone of "democracy," as that concept is generally understood in the United States, is that the governors serve the governed, and that they are held accountable to the people for their public stewardship of the public's affairs through the ballot box. Vote buying attacks that critical dynamic at its core. Those who are targets of vote buying schemes never include the powerful, the rich or the privileged. Rather, vote buying targets the poor, the dispossessed, the socially dependent and the culturally challenged. Yet those are precisely the people who need the vote the most! Where vote buying occurs, the political debt that the public officials involved owe to such citizens is discharged up front and usually in cash. As long as politicians are confident that they can win elections by giving voters small gifts to get them to the polls or to reward them for voting, those politicians have absolutely no motive or reason to be responsive to the usually very real needs of the challenged segment of society whose votes have been bought.

For this reason, vote buying offenses, as discussed more fully below, have represented a sizable segment of the federal election crime docket in modern times.

The clause of section 1973i(c) that prohibits "vote buying" does so in broad terms, covering any payment made or offered to a would-be voter "to vote or for voting" in an election where the name of a federal candidate appears on the ballot, as well as payments made to induce unregistered persons to register.¹³ Section 1973i(c) applies as long as a pattern of vote buying exposes a federal election to potential corruption, even though it cannot be shown that the threat materialized.

This aspect of section 1973i(c) is directed at eliminating pecuniary considerations from the voting process. *Garcia*; *Mason*; *Malmay*; *Bowman*, supra. The statute rests on the premises that potential voters can choose not to vote; that those who choose to vote have a right not to have the voting process diluted with ballots that have been procured through bribery; and that the selection of the nation's leaders should not degenerate into a spending contest, with the victor being the candidate who can pay the most voters. See also *United States v. Blanton*, 77 F. Supp. 812, 816 (E.D. Mo. 1948).

The payment may be anything having monetary value, including cash, liquor, lottery chances, and welfare benefits such as food stamps. *Garcia*, 719 F.2d at 102. However, offering free rides to the polls or providing employees paid leave while they vote are not prohibited. *United States v. Lewin*, 467 F.2d 1132 (7th Cir.

¹³ The federal criminal code contains another vote buying statute, 18 U.S.C. § 597, which has a narrower scope and provides for lesser penalties than section 1973i(c). Section 597 prohibits making or offering to make an expenditure to any person to vote or withhold his or her vote for a federal candidate. Nonwillful violations of section 597 are one-year misdemeanors; willful violations are two-year felonies. Sections 597 and 1973i(c) are distinct offenses, since each requires proof of an element that the other does not. *Whalen v. United States*, 445 U.S. 684 (1980); *Blockburger v. United States*, 284 U.S. 299 (1932). Section 597 requires that the payment be made to influence a federal election; section 1973i(c) requires that the defendant have acted "knowingly and willfully." Section 597 is primarily useful in plea negotiations as an alternative to section 1973i(c).

1972). Such things are given to make it easier for people to vote, not to induce them to do so. This distinction is important. For an offer or a payment to violate section 1973i(c) it must have been intended to induce or reward the voter for engaging in one or more acts necessary to cast a ballot. Section 1973i(c) does *not* prohibit offering or giving things having theoretical pecuniary value, such as a ride to the polls or time off from work, to individuals who have already made up their minds to vote solely to facilitate their doing so.

Moreover, payments made for some purpose other than to induce or reward voting activity, such as remuneration for campaign work, do not violate this statute. See *United States v. Canales*, 744 F.2d 413 (5th Cir. 1984), cert. denied, 473 U.S. 906 (1985). Similarly, section 1973i(c) does not apply to payments made to signature-gatherers for voter registrations such individuals may obtain, a practice sometimes referred to as "bounty hunting." Such payments become actionable under section 1973i(c) only if they are shared with the person being registered.

The federal crime of vote buying in the United States also does not cover the interjection of partisan political considerations into an otherwise legally defensible award of government grants or benefits to a body politic. For example, it is not a "vote buying" crime in the United States for an incumbent administration to award a road construction project to a geographic area that is view as being politically competitive, provided that there is an otherwise objective valid public need for the project. Vote buying in the United States is personal in nature, in the sense that the benefit that represents the corpus of the corrupt payment must have been offered or accepted to an individual voter rather than non-personally to a segment of a body politic.

The improper use of state resources for partisan political purposes also does not violate the vote buying provisions of Section 1973i(c). However, embezzling state resources or assets by allowing them to be used by political candidates or parties to further campaigning activities can be prosecuted under criminal laws dealing with embezzlement and theft of government property.

Finally, section 1973i(c) does not require that the offer or payment have been made with a specific intent to influence a federal contest - - or for that matter that it was offered or given to influence votes cast for any particular candidate or party. It is sufficient that the name of a federal candidate appeared on the ballot in the election where the payment or offer of payment occurred, and that the payment or offer fo payment have been "for voting" as distinguished from some other sort of activity. *Slone* (payments to influence vote for county judge executive); *Garcia* (providing food stamps to influence vote for candidates running for county judge and county commissioner); *United States v. Thompson*, 615 F.2d 329 (5th Cir. 1980), *Carmichael, Mason, Sayre* (payments to influence votes for candidates running for sheriff or other local offices); *Simms* (payments to vote for a state judicial post); *Malmay* (payments to vote for school board member); *United States v. Odom*, 858 F.2d 664 (11th Cir. 1988)(payments for votes for a state representative); *United States v. Campbell*, 845 F.2d 782 (8th Cir. 1988), cert. denied, 488 U.S. 965 (1989)(payments to benefit a candidate for county judge); *United States v. Daugherty*, 952 F.2d 969 (8th Cir. 1991) (payments to vote for a number of local candidates); *McCrainie* (payments to influence election for sheriff where the name of an unopposed federal candidate appeared on the ballot).

d) Conspiracy to cause illegal voting

The second clause of section 1973i(c) criminalizes conspiracies to encourage "illegal voting." The phrase "illegal voting" is not defined in the statute. On its face it encompasses unlawful conduct in connection with voting. Violations of this provision are felonies.

The "illegal voting" clause of section 1973i(c) has potential application to those who undertake to cause others to register or vote in conscious derogation of state or federal laws. *Cianciulli*, 482 F. Supp. at 616 (noting that this clause would prohibit "vot[ing] illegally in an improper election district"). For example, all states require voters to be United States citizens, and most states disenfranchise people who have been convicted of certain crimes,

who are mentally incompetent, or who possess other disabilities which may warrant restriction of the right to vote.¹⁴

This provision requires that the voter have been a participant in the conspiracy. Cases brought under this clause thus should include proof that the voter was actively aware that he or she was not eligible to vote and was registering or voting illegally. However, the statute criminalizes only the conduct of the person who encourages an ineligible voter to register or an eligible voter to vote illegally -- not the conduct of the voter.

The conspiracy provision of section 1973i(c) applies only to the statute's "illegal voting" clause. Olinger, 759 F.2d at 1298-1300. Conspiracies arising under the other clauses of section 1973i(c) (that is, those involving vote buying or fraudulent registration) should be charged under the general federal conspiracy statute, 18 U.S.C. § 371.

4. Voting more than once: 42 U.S.C. § 1973i(e)

Section 1973i(e), enacted as part of the 1975 amendments to the Voting Rights Act of 1965, makes it a crime to vote "more than once" in any election in which a federal candidate is on the ballot. Violations are punishable by imprisonment for up to five years.

The federal jurisdictional basis for this statute is identical to that for 42 U.S.C. § 1973i(c), which is discussed in detail in the previous item.

Section 1973i(e) is most useful as a statutory weapon against frauds which do not involve the participation of voters in the balloting acts attributed to them. Examples of such frauds are schemes to cast ballots in the names of voters who were deceased or absent, *United States v. Olinger*, 759 F.2d 1293 (7th Cir.), cert. denied, 474 U.S. 839 (1985); schemes to exploit the infirmities of the mentally handicapped by casting ballots in their names. *United States v. Odom*, 736 F.2d 104 (4th Cir. 1984); and schemes to cast absentee ballots in the names of voters who did not participate in and consent to the marking of their ballots by the offender. *United States v. Smith*, 231 F.3d 800 (11th Cir. 2000).

Most cases prosecuted under the multiple voting statute have involved defendants who physically marked ballots outside the presence of the voters in whose names they were cast -- in other words, without the voters' participation or knowledge. The statute may also be applied successfully to schemes where the voters are present but do not participate in any way, or otherwise consent to the defendant's assistance, in the voting process.

¹⁴ False statements involving any fact which is material to registering or voting under state law may also be prosecuted under 42 U.S.C. § 1973gg-10, as will be discussed below.

However, when the scheme involves "assisting" voters who both are present and marginally participate in the process, such as by signing a ballot document, prosecuting the case under section 1973i(e) may present difficulties. For instance, in *United States v. Salisbury*, 983 F.2d 1369 (6th Cir. 1993), the defendant got voters to sign their absentee ballot forms and then instructed them how to mark their ballots, generally without allowing them to choose the candidates -- and in some cases even to know the identity of the candidates on the ballot. In a few cases the defendant also personally marked others' ballots. The Sixth Circuit held that the concept "votes more than once" in section 1973i(e) was unconstitutionally vague as applied to these facts. Because the phrase "votes more than once" was not defined in the statute, the court found the phrase did not clearly apply when the defendant did not physically mark another's ballot. The court further held that even if the defendant did mark another's ballot, it wasn't clear this was an act of "voting" by the defendant if the defendant got the ostensible voters to demonstrate "consent" by signing their names to the accompanying ballot forms. *Salisbury* at 1379.¹⁵

A year after *Salisbury*, the Seventh Circuit took a different approach -- with the benefit of more detailed jury instructions. *United States v. Cole*, 41 F.3d 303 (7th Cir. 1994).¹⁶ In both cases, the defendants had marked absentee ballots of other persons after getting the voters to sign their ballot documents. The Seventh Circuit rejected the Sixth Circuit's contention that the term "vote" was unconstitutionally vague, finding that the term was broadly and adequately defined in the Voting Rights Act itself, 42 U.S.C. ' 1973L(c)(1), and that this

¹⁵ The *Salisbury* Court noted that in *United States v. Hogue*, 812 F.2d 1568 (11th Cir. 1987), the jury was instructed that illegal voting under section 1973i(e) included marking another person's ballot without his or her "express or implied consent," but found that, on the facts of *Salisbury*, the jury should also have been given definitions of "vote" and "consent." *Salisbury* at 1377.

¹⁶ After discussing the Sixth Circuit's reasoning, the Seventh Circuit expressly declined to follow it. The *Cole* decision was written by a judge of the Eleventh Circuit, sitting by designation. *Cole* thus also may have some value in the Eleventh Circuit.

statutory definition was supported by both the dictionary and commonly understood meaning of the word. The court held that the facts established a clear violation by the defendant of the multiple voting prohibition in section 1973i(c).¹⁷

In addition to their conflicting holdings, the Salisbury and Cole opinions differ in their approach to so-called voter "assistance" cases. Salisbury focused on the issue of voter consent -- that is, whether the voters had, by their conduct, in some way "consented" to having the defendant mark, or help them mark, their own ballots. Cole, on the other hand, focused on whether it was the voter or the defendant who actually expressed candidate preferences.

In a more recent case, the Eleventh Circuit followed the rationale in Cole with respect to a scheme to obtain and cast ballots for indigent voters without their knowledge or consent. Smith, supra. The court even went so far as to note that, in its view, a section 1973i(e) offense could lie regardless of whether the voter had consented to another's marking his ballot. Smith at 816, fn. 20.

While the approach taken in Cole and Smith is, from a prosecutor's perspective, preferable to Salisbury's, the latter's discussion of the issue of possible voter "consent" remains important, since facts suggesting the possibility of consent may weaken the evidence of fraud. Taken together, these three cases suggest the following approach to voter "assistance" frauds:

- The use of section 1973i(e) should generally be confined to what amounts to clear "ballot theft." Examples of such situations are where the defendant marked the ballots of others without their input; where voters did not knowingly consent to the defendant's participation in their voting transactions; where the voters' electoral preferences were disregarded; or where the defendant marked the ballots of voters who lacked the mental capacity to vote or to consent to the defendant's activities.
- Jury instructions for a section 1973i(e) indictment should amplify the key term "votes more than once" in the context of the particular case, and specifically define the terms "vote," and, where appropriate, "consent" and "implied consent." See 42 U.S.C. § 1973i(c)(1) (containing an extremely broad definition of "vote") and United States v. Boards, 10 F.3d 587, 589 (8th Cir. 1993) (holding that this definition encompasses applying for an absentee ballot).

Thus, while the clearest use of section 1973i(e) is to prosecute pure ballot forgery schemes, the statute can also apply to other types of schemes where voters are manipulated, misled, or otherwise deprived of their votes. See Cole at 310-311 (witness believed the defendant was merely registering her to vote, not helping her vote). Schemes to steal the votes of the elderly, infirm, or economically disadvantaged may constitute multiple voting if there is a clear absence of meaningful voter participation. Because of their vulnerability, these persons are frequent targets of ballot schemes, and often do not even know that their ballots have been stolen or their

¹⁷ "Ordinary people can conclude that the absentee voters were not expressing their wills or preferences, i.e., that Cole was using the absentee voters' ballots to vote his will and preferences." Cole at 308.

voting choices ignored; furthermore, if they have been intimidated, they are generally reluctant to say so.

There is a significant evidentiary difference between voter intimidation and multiple voting that suggests that the multiple voting statute may often become the preferred charging statute for voter "assistance" frauds. Voter intimidation requires proof of a difficult element: the existence of physical or economic intimidation that is intended by the defendant and felt by the victim. In contrast, the key element in a multiple voting offense is whether the defendant voted the ballot of another person without consulting with that person or taking into account his or her electoral preferences.

In conclusion, if the facts show manipulation of what the United States Sentencing Guidelines call "vulnerable victims" for the purpose of obtaining control over the victims' ballot choices, the use of section 1973i(e) as a prosecutive theory should always be considered.

5. Voter intimidation

Voter intimidation schemes are the functional opposite of voter bribery schemes. In the case of voter bribery, voting activity is stimulated by offering or giving something of value to individuals to induce them to vote or reward them for having voted. The goal of voter intimidation, on the other hand, is to deter or influence voting activity through threats to deprive voters of something they already have, such as jobs, government benefits, or, in extreme cases, their personal safety. Another distinction between voter bribery and intimidation is that bribery generates concrete evidence: the bribe itself (generally money). Intimidation, on the other hand, is amorphous and largely subjective in nature, and lacks such concrete evidence.

Voter intimidation is an assault against both the individual and society, warranting prompt and effective redress by the criminal justice system. Yet a number of factors make it difficult to prosecute. The intimidation is likely to be both subtle and without witnesses. Furthermore, voters who have been intimidated are not merely victims; it is their testimony that proves the crime. These voters must testify, publicly and in an adversarial proceeding, against the very person who intimidated them. Obtaining this crucial testimony can be difficult.

The crime of voter "intimidation" normally requires evidence of threats, duress, economic coercion, or some other aggravating factor which tends to improperly induce conduct on the part of the victim. If such evidence is lacking, an alternative prosecutive theory may apply to the facts, such as multiple voting in violation of 42 U.S.C. ' 1973i(e). Indeed, in certain cases the concepts of "intimidation" and voting "more than once" may overlap and even merge. For example, a scheme which targets the votes of persons who are mentally handicapped, economically depressed, or socially vulnerable may involve elements of both crimes. Because of their vulnerability, these persons are often easily manipulated -- without the need for inducements, threats, or duress. In such cases, the use of section 1973i(e) as a prosecutive theory should be considered. See *United States v. Odom*, 736 F.2d 104 (4th Cir. 1984).

The main federal criminal statutes that can apply to voter intimidation are: 18 U.S.C. " 241, 242, 245(b)(1)(A), 594, and two statutes enacted in 1993, 18 U.S.C. ' 610 and 42 U.S.C. ' 1973gg-10(1). Each of these statutes is discussed below.

a) Intimidation in voting and registering to vote: 42 U.S.C. § 1973gg-10(1)

Congress enacted the National Voter Registration Act (NVRA), 42 U.S.C. " 1973gg-1973gg-10, in 1993. The principal purpose of this legislation was to require that the states provide prospective voters with uniform and convenient means by which to register for the federal franchise. In response to concerns that relaxing registration requirements might lead to an increase in election fraud, the NVRA also included a new series of

election crimes, one of which prohibited knowingly and willfully intimidating or coercing prospective voters for registering to vote, or for voting, in any election for federal office. 42 U.S.C. § 1973gg-10(1). Violators are subject to imprisonment for up to five years.

As with other statutes addressing voter intimidation, in the absence of any jurisprudence to the contrary, it is the Criminal Division's position that section 1973gg-10(1) applies only to intimidation which is accomplished through the use of threats of physical or economic duress. Voter "intimidation" accomplished through less drastic means may present violations of the Voting Rights Act, 42 U.S.C. § 1973i(b), which are enforced by the Civil Rights Division through noncriminal remedies.

The jurisdictional element for section 1973gg-10(1) is "in any election for Federal office." This is slightly different phraseology than that used in sections 1973i(c) and i(e), discussed above. In matters involving intimidation in connection with voter registration, this jurisdictional element is satisfied in every case because voter registration is unitary in all 50 states: i.e., one registers to vote only once to become eligible to vote for federal as well as non-federal candidates. However, when the intimidation occurs in connection with voting, the jurisdictional situation may not be as clear. Although at the time this book was written there had been no jurisprudence on the issue, the Criminal Division believes that in voting intimidation matters, federal prosecutors should exercise caution by ensuring that the vote corrupted by the intimidation included marking the victim's ballot for a federal candidate. Unlike sections 1973i(c) and i(e), the mere presence of a federal candidate's name on the ballot may not be sufficient to satisfy the jurisdictional predicate of this statute.

b) Intimidation of voters: 18 U.S.C. § 594

Section 594 prohibits intimidating, threatening, or coercing anyone, or attempting to do so, for the purpose of interfering with an individual's right to vote or not vote in any election held in whole or in part to elect a federal candidate. The statute does not apply to primaries. Violations are one-year misdemeanors.

The operative words in section 594 are "intimidates," "threatens," and "coerces." The scienter element requires proof that the actor intended to force voters to act against their will by placing them in fear of losing something of value. The feared loss may be of something tangible, such as money or economic benefits, or intangible, such as liberty or safety.

Section 594 was enacted as part of the original 1939 Hatch Act, which aimed at prohibiting the blatant economic coercion used during the 1930s to force federal employees and recipients of federal relief benefits to perform political work and to vote for and contribute to the candidates supported by their supervisors. The congressional debates on the Hatch Act show that Congress intended section 594 to apply where persons were placed in fear of losing something of value for the purpose of extracting involuntary political activities. 84 Cong. Rec. 9596-611 (1939). Although the impetus for the passage of section 594 was Congress's concern over the use of threats of economic loss to induce political activity, the statute also applies to conduct which interferes, or attempts to interfere, with an individual's right to vote by placing him or her in fear of suffering other kinds of tangible and intangible losses. It thus criminalizes conduct intended to force prospective voters to vote against their preferences, or refrain from voting, through activity reasonably calculated to instill some form of fear in them.¹⁸

¹⁸ In recent years, the civil counterparts to section 594, 42 U.S.C. §§ 1971b and 1973(b), have been used to combat nonviolent voter intimidation. See, e.g., *United States v. North Carolina Republican*, No. 91-161-Civ-5F (E.D.N.C., consent decree entered Feb. 27, 1992) (consent order entered against political organizations for mailing to thousands of minority voters postcards that contained false voting information and a threat of prosecution).

c) Coercion of political activity: 18 U.S.C. § 610

Section 610 was enacted as part of the 1993 Hatch Act Reform Amendments to provide increased protection against political manipulation of federal employees in the executive branch.¹⁹ It prohibits intimidating or coercing a federal employee to induce or discourage "any political activity" by the employee. Violators are subject to imprisonment for up to three years. This statute is discussed in detail in Chapter Two, which addresses patronage crimes.

Although the class of persons covered by section 610 is limited to federal employees, the conduct covered by this new statute is broad: it reaches political activity which relates to any public office or election, whether federal, state, or local. The phrase "political activity" in section 610 expressly includes, but is not limited to, "voting or refusing to vote for any candidate or measure," "making or refusing to make any political contribution," and "working or refusing to work on behalf of any candidate."

d) Conspiracy against rights and deprivation of constitutional rights:
18 U.S.C. §§ 241 and 242

Section 241 makes it a ten-year felony to "conspire to injure, oppress, threaten, or intimidate any person in any state, territory or district in the free exercise or enjoyment of any right or privilege secured by the Constitution or laws of the United States" -- including the right to vote. The statute, which is discussed in detail above, has potential application to two forms of voter intimidation: a conspiracy to prevent persons whom the subjects knew were qualified voters from entering the polls to vote in an election where a federal candidate is on the ballot, and a conspiracy to misuse state authority to prevent qualified voters from voting for any candidate in any election.

Section 241 has been successfully used to prosecute intimidation in connection with political activities. *Wilkins v. United States*, 376 F.2d 552 (5th Cir.)(en banc), cert. denied, 389 U.S. 964 (1967). *Wilkins* involved both violence and clear racial animus. It arose out of the shooting of a participant in the 1965 Selma-to-Montgomery voting rights march. The marchers had intended to present to the Governor of Alabama a petition for redress of grievances, including denial of their right to vote. The Fifth Circuit held that those marching to protest denial of their voting rights were exercising "an attribute of national citizenship, guaranteed by the United States," and that shooting one of the marchers therefore violated section 241. 376 F.2d at 561.

¹⁹ A similar statute addresses political intimidation within the military. 18 U.S.C. § 609. It prohibits officers of the United States armed forces from misusing military authority to coerce members of the military to vote for a federal, state, or local candidate. Violations are five-year felonies. In addition, 18 U.S.C. § 593 makes it a five-year felony for a member of the military to interfere with a voter in any general or special election, and 18 U.S.C. § 596 makes it a misdemeanor to poll members of the armed forces regarding candidate preferences.

Section 242, as also discussed above, makes it a misdemeanor for any person to act "under color of any law, statute, ordinance, regulation, or custom," knowingly and willfully to deprive any person in a state, territory, or district of a right guaranteed by the Constitution or federal law. For all practical purposes, this statute embodies the substantive offense for a section 241 conspiracy and it therefore can apply to voter intimidation.

It is the Criminal Division's position that sections 241 and 242 may be used to prosecute schemes the object of which was to intimidate voters in federal elections through threats of physical or economic duress, or to prevent otherwise lawfully qualified voters from getting to the polls in elections where federal candidates are on the ballot. Examples of the latter include intentionally jamming telephone lines to disrupt a political party's get-out-the-vote or "ride-to-the-polls" efforts, and schemes to vandalize motor vehicles a political faction or party intended to use to get voters to the polls.

e) Federally protected activities: 18 U.S.C. § 245(b)(1)(A)

The Civil Rights Act of 1968 contains a broad provision that addresses violence intended to intimidate voting in any election in this country. 18 U.S.C. ' 245(b)(1)(A). This provision applies without regard to the presence of racial or ethnic factors.

Section 245(b)(1)(A) makes it illegal to use or threaten to use physical force to intimidate individuals from, among other things, "voting or qualifying to vote." It reaches threats to use physical force against a victim because the victim has exercised his or her franchise, or to prevent the victim from doing so. Violations are misdemeanors if no bodily injury results, and ten-year felonies if it does; if death results, the penalty is life imprisonment.

Prosecutions under section 245 require written authorization by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or a specifically designated Assistant Attorney General, who must certify that federal prosecution of the matter is "in the public interest and necessary to secure substantial justice." § 245(a)(1). This approval requirement was imposed in response to federalism issues which many Members of Congress believed were inherent in a statute giving the federal government prosecutive jurisdiction over what otherwise would be mere assault and battery cases. See 1968 U.S.C.C.A.N. 1837-67 (Judiciary Committee Report on H.R. 2516). In making the required certification under section 245(b)(1)(A), the standard to be applied by the Attorney General is whether the facts of the particular matter are such that the appropriate state law enforcement authorities should, but either cannot or will not, effectively enforce the applicable state law, thereby creating an overriding need for federal intervention. 1968 U.S.C.C.A.N 1845-48 (Judiciary Committee Report on H.R. 2516).

6. Fraudulent registering and voting: 42 U.S.C. § 1973gg-10(2)

This provision was enacted as part of the National Voter Registration Act of 1993 (NVRA). As discussed above, Congress enacted the NVRA to ease voter registration requirements throughout the country. The major goal of this legislation was to promote the exercise of the franchise by replacing diverse state voter registration requirements with uniform and more convenient registration options, such as registration by mail, when applying for a driver's license, and at various government agencies.

In addition, the NVRA sought to protect the integrity of the electoral process and the accuracy of the country's voter registration rolls. To further this goal, a new criminal statute was enacted which specifically addressed two common forms of electoral corruption: intimidation of voters (42 U.S.C. § 1973gg-10(1), discussed above), and fraudulent registration and voting. 42 U.S.C. ' 1973gg-10(2). Violations of this statute are punishable by imprisonment for up to five years.

The NVRA's criminal statute resulted from law enforcement concerns expressed during congressional debates on the proposed law. Opponents and supporters of the NVRA alike recognized that relaxing requirements for registering to vote had the unavoidable potential to increase the occurrence of election crime by making it easier for the unscrupulous to pack registration rolls with fraudulent applications and ballots.

The constitutional basis of the NVRA is Congress's broad power to regulate the election of federal officials. NVRA's criminal provision reflects this federal focus, and is limited to conduct which occurs "in any election to Federal office." The phrasing of this jurisdictional element differs somewhat from the jurisdictional language used by Congress in earlier election fraud statutes, which required only that the name of a federal candidate be on the ballot.²⁰ While the Department believes that the jurisdictional language used in section 1973gg-10 was included to achieve the same result as the jurisdictional element for sections 1973i(c) and i(e), prosecutors and investigators wishing to proceed under section 1973gg-10 should be sensitive to the differences in its jurisdictional phraseology and when proceeding under section 1973gg-10 should be prepared to prove that the fraud in question either pertained to voter registration or that it affected, at least indirectly, the vote count for the federal candidate(s) on the ballot.

a) Fraudulent registration: § 1973gg-10(2)(A)

Subsection 1973gg-10(2)(A) prohibits any person, in an election for federal office, from defrauding or attempting to defraud the residents of a state of a fair and impartially conducted election by procuring or submitting voter registration applications that the offender knows are materially false or defective under state law. The scope of the statute is broader than that of the "false information" provision of section 1973i(c), discussed above, which is limited to false information involving only name, address, or period of residence. The statute applies to any false information that is material to a registration decision by an election official. For this reason, the provision is likely to be the statute of preference for most false registration matters.

For schemes to submit fraudulent registration applications, the statute's "federal office" jurisdictional element is automatically satisfied and hence does not present a problem. This is because registration to vote is unitary in all states, in the sense that in registering to vote an individual becomes eligible to vote in all elections, nonfederal as well as federal.

b) Fraudulent voting: § 1973gg-10(2)(B)

Subsection 1973gg-10(2)(B) prohibits any person, in an election for federal office, from defrauding or

²⁰ Those earlier statutes, sections 1973i(c) and (e), contain express references to each federal office (Member of the House, Member of the Senate, President, Vice President, presidential elector) and type of election (primary, general, special) providing potential federal jurisdiction. The revised language seems to have been intended as a less cumbersome rephrasing of the required federal nexus. However, at the time this book was written there was no jurisprudence on this point.

attempting to defraud the residents of a state of a fair election through casting or tabulating ballots that the offender knows are materially false or fraudulent under state law. Unlike other ballot fraud laws discussed in this chapter, the focus of this provision is not on any single type of fraud, but rather on the result of the false information: that is, whether the ballot generated through the false information was defective and void under state law. Because of the conceptual breadth of the new provision, it may become a useful alternative to general fraud statutes in reaching certain forms of election corruption.

The statute's jurisdictional element, "in any election for Federal office," restricts its usefulness for fraudulent voting (as opposed to fraudulent registration) schemes. This subsection of the statute applies only to elections which include a federal candidate. Thus its scope is similar to that of 42 U.S.C. " 1973i(c) and (e), and arises from the fact that fraudulent activity aimed at any race in a mixed election has the potential to taint the integrity of the federal race.

7. Voting by noncitizens

Federal law does not expressly require that persons be United States citizens in order to vote. Eligibility to vote is a matter which the Constitution leaves primarily to the states. At the time this book was written, all states required that prospective voters be United States citizens.

In 1993, the federal role in the election process expanded substantially with the passage of the National Voter Registration Act (NVRA). This legislation required, among other things, that forms used to register voters clearly state that citizenship is a voting prerequisite, and that persons registering to vote in federal elections affirm that they are United States citizens. 42 U.S.C. §§ 1973gg-3(c)(2)(c), 1973gg-5(a)(6)(A)(I), 1973gg-7(b)(2). Nine years later, this requirement was reemphasized with respect to individuals who register to vote by mail. The Help America Vote Act of 2002 required the states to place a citizenship question on forms used by individuals under the "registration by mail" feature of NVRA. 42 U.S.C. § 15483(b)(4)(A).

Voting by noncitizens is covered by four separate federal criminal laws:

a) Fraudulent registration and voting under the NVRA: 42 U.S.C. 1973gg-10

The NVRA enacted a new criminal statute that reaches the knowing and willful submission to election authorities of false information which is material under state law. 42 U.S.C. ' 1973gg-10(2). Because all states make citizenship a prerequisite for voting, statements by prospective voters concerning citizenship status are automatically "material" within the meaning of this statute.

Therefore, any false statement concerning an applicant's citizenship status that is made on a registration form submitted to election authorities can involve a violation of the NVRA's registration fraud statute. Such violations are felonies subject to imprisonment for up to five years.

For jurisdictional purposes, the statute requires that the fraud be in connection with a federal election. As discussed above, voter registration in every state is unitary, in the sense that an individual registers to vote only once for all elective offices, local, state, and federal. Thus the jurisdictional element of section 1973gg-10(2) is satisfied whenever a false statement concerning citizenship status is made on a voter registration form.

Section 1973gg-10(2) is a specific intent offense. This means that the offender must have been aware that citizenship is a requirement for voting and that the registrant did not possess United States citizenship. In most instances, proof of the first element is relatively easy because the citizenship requirement is stated on the voter registration form, and the form requires that the voter check a box indicating that he or she is a citizen. Proof of the second element, however, may be more problematic, since the technicalities of acquiring United States citizenship may not have existed in the culture of the registrant's country of birth, or otherwise been evident to

him, and because the registrant may have received bad advice concerning the citizenship requirement. These issues can also usually be overcome by the fact that all voter registration forms now require a registrant to certify that he or she is a citizen.

**b) Naturalization, citizenship, or alien registry:
18 U.S.C. § 1015(f)**

Section 1015(f) was enacted in 1996 to provide an additional criminal prohibition addressing the participation of noncitizens in the voting process. This statute makes it an offense for an individual to make any false statement or claim that he or she is a citizen of the United States in order to register, or to vote. Unlike all other statutes addressing alien voting, section 1015(f) expressly applies to all elections -- federal, state, and local -- as well as to initiatives, recalls, and referenda.

Jurisdictionally, section 1015(f) rests on Congress's power over nationality (art. I, § 8, cl. 3), rather than on the Election Clause (art. I, § 4, cl. 1), which provides the basis for its broad reach.

Section 1015(f) is a specific intent offense and requires proof that the registrant or voter, or the person assisting the registrant or voter, be aware that citizenship is a prerequisite for registering or voting and that the registrant or voter does not possess United States citizenship.

Violations of section 1015(f) are felonies, punishable by imprisonment for up to five years.

c) Citizen of the United States: 18 U.S.C. § 911

Section 911 prohibits the knowing and willful false assertion of United States citizenship by a noncitizen. See, e.g., *United States v. Franklin*, 188 F.2d 182 (7th Cir. 1951); *Fotie v. United States*, 137 F.2d 831 (8th Cir. 1943). Violations of section 911 are punishable by imprisonment for up to three years.

As noted, all states require United States citizenship as a prerequisite for voting. However, historically, some states have not implemented the prerequisite through voter registration forms that clearly alerted prospective registrants that only citizens may vote. Under the NVRA, all states must now make this citizenship requirement clear, and prospective registrants must sign applications under penalty of perjury attesting that they meet this requirement. Therefore, falsely attesting to citizenship in any state is now more likely to be demonstrably willful, and therefore cognizable under section 911.

Section 911 requires proof that the offender was aware he was not a United States citizen, and that he was falsely claiming to be a citizen on a voter registration form. Violations of section 911 are felonies, punishable by up to three years' imprisonment.

d) Voting by aliens: 18 U.S.C. § 611

Section 611 is a relatively new statute that creates an additional crime for voting by persons who are not United States Citizens.

It applies to voting by non-citizens in an election where a federal candidate is on the ballot, except when: (1) non-citizens are authorized to vote by state or local law on non-federal candidates or issues, and (2) the ballot is formatted in a way that the non-citizen has the opportunity to vote solely for the non-federal candidate or issues on which he is entitled to vote under state law. Unlike section 1015(f), section 611 is directed at the act of voting, rather than the act of lying. But unlike section 1015(f), Section 611 is a strict liability offense in the sense that the prosecution must only prove that the defendant was not a citizen when he registered or voted.

Section 611 does not require proof that the offender be aware that citizenship is a prerequisite to voting.

Violations of section 611 are misdemeanors, punishable by up to one year imprisonment.

8. Travel Act: 18 U.S.C. § 1952

The Travel Act, 18 U.S.C. ' 1952, prohibits interstate travel, the interstate use of any other facility (such as a telephone), and any use of the mails to further specified "unlawful activity," including bribery in violation of state or federal law. Violations are punishable by imprisonment for up to five years. This statute is useful in election crime matters in that it applies to vote buying offenses that occur in states where vote-buying is a "bribery" offense, and it does so regardless of the type of election involved.

The predicate bribery under state law need not be common law bribery. The Travel Act applies as long as the conduct is classified as a "bribery" offense under applicable state law. *Perrin v. United States*, 444 U.S. 37 (1979). In addition, the Travel Act has been held to incorporate state crimes regardless of whether they are classified as felonies or misdemeanors. *United States v. Polizzi*, 500 F.2d 856, 873 (9th Cir. 1974), cert. denied, 419 U.S. 1120 (1975), *United States v. Karigiannis*, 430 F.2d 148, 150 (7th Cir.), cert. denied, 400 U.S. 904 (1970).

The first task in determining whether the Travel Act has potential application to a vote buying scheme is to examine the law of the state where the vote buying occurred to determine if it either: (1) is classified as a bribery offense, or (2) describes the offense of paying voters for voting in a way that requires proof of a quid pro quo, i.e., that a voter be paid in consideration for his or her vote for one or more candidates. If the state offense meets either of these criteria, the Travel Act potentially applies.

In the past, Travel Act prosecutions have customarily rested on predicate acts of interstate travel or the use of interstate facilities. Since election fraud is a local crime, interstate predicate acts are rarely present, and the Travel Act has not been used to prosecute election crime. However, in *United States v. Riccardelli*, 794 F.2d 829 (2d Cir. 1986), the Act's mail predicate was held to be satisfied by proof of an intrastate mailing. In reaching this conclusion, the Court conducted an exhaustive analysis of the Travel Act's legislative history and Congress's authority to regulate the mails. The Sixth Circuit subsequently reached a contrary result, holding that the Travel Act's mail predicate required an interstate mailing. *United States v. Barry*, 888 F.2d 1092 (6th Cir. 1989). In 1990 Congress resolved this conflict by adopting the Riccardelli holding in an amendment to the Travel Act, expressly extending federal jurisdiction to any use of the mails in furtherance of a state predicate offense.

Thus, the Travel Act should be considered as a vehicle to prosecute vote buying schemes in which the mails were used in those states where vote buying is statutorily defined as bribery. This theory is one of the few available which do not require a federal candidate on the ballot.

As with the mail fraud statute, each use of the mails in the furtherance of the bribery scheme is a separate offense. *United States v. Jabara*, 644 F.2d 574 (6th Cir. 1981). The defendant need not actually have done the mailing, so long as it was a reasonably foreseeable consequence of his or her activities. *United States v. Kelly*, 395 F.2d 727 (2d Cir.), cert. denied, 393 U.S. 963 (1968). Nor need the mailing have in itself constituted the illegal activity, as long as it promoted it in some way. *United States v. Bagnariol*, 665 F.2d 877 (9th Cir. 1981), cert. denied, 456 U.S. 962 (1982); *United States v. Barbieri*, 614 F.2d 715 (10th Cir. 1980); *United States v. Peskin*, 527 F.2d 71 (7th Cir. 1975), cert. denied, 429 U.S. 818 (1976); *United States v. Wechsler*, 392 F.2d 344 (4th Cir.), cert. denied, 392 U.S. 932 (1968).

An unusual feature of the Travel Act is that it requires an overt act subsequent to the jurisdictional event charged in the indictment. Thus, if a Travel Act charge is predicated on a use of the mails, the government

must allege and prove that the defendant or his or her agent subsequently acted to further the underlying unlawful activity. The subsequent overt act need not be unlawful in itself; this element has been generally held to be satisfied by the commission of a legal act as long as the act facilitated the unlawful activity. See, e.g., *United States v. Davis*, 780 F.2d 838 (10th Cir. 1985).

The Travel Act is particularly useful in voter bribery cases in non-federal elections that involve the mailing of absentee ballot materials. Such matters usually involve a defendant who offers voters compensation for voting, followed by the voter applying for, obtaining, and ultimately casting an absentee ballot. Each voting transaction can involve as many as four separate mailings: when the absentee ballot application is sent to the voter, when the completed application is sent to the local election board, when the absentee ballot is sent to the voter, and when the voter sends the completed ballot back to the election authority for tabulation.

The mailing must be in furtherance of the scheme. Therefore, care should be taken to ensure that the voting transaction in question was corrupted by a bribe before the mailing charged. If, for example, the voter was not led to believe that he or she would be paid for voting until after applying for, and receiving, an absentee ballot package, then the only mailing affected by bribery would be the transmission of the ballot package to the election authority; the Travel Act charge would have to be predicated on this final mailing, with some other subsequent overt act charged.

9. Mail and Wire Fraud: 18 U.S.C. §§ 1341 and 1343

The federal mail fraud statute prohibits use of the United States mails, or a private or commercial interstate carrier, to further a "scheme or artifice to defraud." 18 U.S.C. § 1341.21 Violations are punishable by imprisonment for up to five years.

At present, the most viable means of addressing election crime under the mail fraud statute is the "salary theory." Under this approach, the pecuniary benefits of elective office are charged as the object of the scheme.

a) Background

Until *McNally v. United States*, 483 U.S. 350 (1987), the mail fraud statute was frequently and successfully used to attain federal jurisdiction over schemes to corrupt local elections. Because its jurisdictional basis is the broad power of Congress to regulate the mails, section 1341 was used to address corruption of the voting process in purely local or state elections. See *Badders v. United States*, 240 U.S. 391, 392 (1916) (overt act of putting a letter in a United States post office is a matter Congress may regulate).

Courts had broadly interpreted the "scheme to defraud" element of section 1341 to include nearly any effort to procure, cast, or tabulate ballots illegal under state law. The theory was that citizens were entitled to fair and honest elections, and a scheme to corrupt an election defrauded them of this right. *United States v. Girdner*, 754 F.2d 877, 880 (10th Cir. 1985) (scheme to cast votes for ineligible voters); *United States v. Clapps*, 732 F.2d 1148, 1152-53 (3d Cir.) (scheme to usurp absentee ballots of elderly voters), cert. denied, 469 U.S. 1085 (1984); *United States v. States*, 488 F.2d 761, 766 (8th Cir. 1973) (scheme to submit fraudulent absentee ballots), cert. denied, 417 U.S. 909 (1974). The mail fraud statute was even held to reach schemes to deprive the public of information required under state campaign finance disclosure statutes. *United States v. Buckley*, 689 F.2d 893, 897-98 (9th Cir. 1982), cert. denied, 460 U.S. 1086 (1983); *United States v. Curry*, 681 F.2d 406, 411 (5th Cir. 1982).

²¹ The federal wire fraud statute, 18 U.S.C. § 1343, is essentially identical to the mail fraud statute, except for its jurisdictional element. Accordingly it also has potential application to election fraud schemes that are furthered by interstate wires.

The jurisdictional mailing requirement of section 1341, moreover, usually posed no substantial obstacle in election fraud cases. The Second Circuit may have adopted the most expansive position, holding in an unpublished opinion that the mail fraud statute applied to any fraudulent election practice resulting in postal delivery of a certificate of election to the winning candidate. See *Ingber v. Enzor*, 664 F. Supp. 814, 815-16 (S.D.N.Y. 1987) (habeas opinion quoting Second Circuit's opinion on direct appeal), *aff'd* on other grounds, 841 F.2d 450 (2d Cir. 1988). See also *United States v. Gordon*, 817 F.2d 1538(11th Cir. 1987)(mailing the certificate of election to the winning candidate held to be in the furtherance of an election fraud scheme to elect that candidate). As most states mail such notices to victorious candidates, this theory would have allowed federal jurisdiction over election fraud by victorious politicians, both federal and nonfederal.

However, in *McNally*, the Supreme Court substantially restricted the utility of the mail fraud statute to combat election crimes. *McNally* held that "scheme to defraud" does not encompass schemes to deprive the public of intangible rights, such as the rights to good government and fair elections, but is limited to schemes to deprive others of property rights.

In 1988, Congress enacted the so-called "McNally-fix" statute, 18 U.S.C. ' 1346, the purpose of which was to restore the pre-*McNally* scope of the mail fraud statute. Unfortunately, by its express terms, section 1346 only applies to schemes to deprive another of the "intangible right of honest services," a concept that does not embrace a scheme to defraud the public of a fair election or information required to be disclosed under federal or state campaign financing laws.

Nevertheless, *McNally* does not entirely foreclose use of the mail fraud statute to address election fraud. If a pecuniary interest -- such as money or salary -- is sought through the scheme, the mail fraud statute still applies. See *McNally*, 483 U.S. at 360 (noting that the jury was not charged on a money or property theory).

b) Salary theory of Mail and Wire Fraud

Schemes to obtain salaried positions by falsely representing one's credentials to a hiring authority remain prosecutable under the mail fraud statute after *McNally*. The objective of such "salary schemes" is to obtain pecuniary things by fraud; such schemes are therefore clearly within the scope of the common law concepts of fraud to which *McNally* sought to restrict the mail fraud statute. See *United States v. Granberry*, 908 F.2d 278, 280 (8th Cir. 1990)(scheme to obtain employment by falsifying application cognizable under salary theory); *cert. denied*, 500 U.S. 921 (1991); *United States v. Doherty*, 867 F.2d 47, 54-57 (1st Cir. 1989)(scheme to rig police promotion exam cognizable on salary theory); *United States v. Walters*, 711 F. Supp. 1435, 1442-46 (N.D. Ill. 1989) (scheme to obtain scholarships through false information), *rev'd* on other grounds, 913 F.2d 388 (7th Cir. 1990); *United States v. Ferrara*, 701 F. Supp. 39 (E.D.N.Y.)(scheme to obtain hospital salaries by falsifying medical training), *aff'd*, 868 F.2d 1268 (2d Cir. 1988); *United States v. Thomas*, 686 F. Supp. 1078, 1083-85 (M.D. Pa.) (scheme to rig police entrance exam), *aff'd*, 866 F.2d 1414 (3d Cir. 1988)(*table*), *cert. denied*, 490 U.S. 1048 (1989); *United States v. Cooper*, 677 F. Supp. 778, 781-82 (D. Del. 1988)(wire fraud scheme to obtain pay for person not performing work).²²

This theory of post-*McNally* mail fraud has potential application to some election fraud schemes, since most elected offices in the United States carry with them a salary and various emoluments that have monetary value. The criterion by which candidates for elected positions are selected by the public is who obtained the most valid

²² Another district court has upheld application of section 1341 to a commercial bribery scheme to pay salary to a dishonest procurement officer. *United States v. Johns*, 742 F. Supp. 196, 204-06, 212-13 (E.D. Pa. 1990) (collecting cases in an extended discussion of the salary theory). The Third Circuit, however, reversed *Johns'* mail fraud convictions with a cursory, unpublished order that held, enigmatically, that the "convictions for mail fraud must be reversed inasmuch as the evidence was insufficient, as a matter of law, to establish that appellant had defrauded his employer of money paid to him as salary." *United States v. Johns*, 972 F.2d 1333 (3d Cir. 1991) (*table*)(available at 1991 U.S. App. LEXIS 18586).

votes. Thus, schemes to obtain salaried elected positions through procuring and tabulating invalid ballots are capable of being charged as traditional common law frauds: that is, schemes to obtain the salary of the office in question by concealing material facts about the critical issue of which candidate received the most valid votes. In addition, election fraud schemes can present related issues concerning the quality and value of the public officer hired thereby. The Supreme Court observed in *McNally* that deceit concerning the quality and value of a commodity or service remains within the scope of the mail fraud statute:

We note that as the action comes to us, there was no charge and that the jury was not required to find that the Commonwealth itself was defrauded of any money or property. It was not charged that in the absence of the alleged scheme the Commonwealth would have paid a lower premium or secured better insurance.

483 U.S. at 360 (emphasis added). Election fraud schemes involve an aspect of material concealment insofar as the "value" of the services the public is paying for are concerned: the public "hired" the candidate it was falsely led to believe received the most valid votes, and consequently received services of lower value.

The "salary theory" of post-*McNally* mail fraud has been applied to election frauds in only a few cases to date, most notably *Ingber v. Enzor*, 841 F.2d 450 (2d Cir. 1988) (post-*McNally* habeas relief appropriate for pre-*McNally* mail fraud defendant convicted of securing election to salaried township position through illegal ballots, where reviewing court could not determine whether jury's verdict rested on "salary theory" or on alternative intangible rights theory of the case); and *United States v. Webb*, 689 F. Supp. 703 (W.D. Ky. 1988) (tax dollars paid to a public official elected by fraud are a loss to the citizens, who did not receive the benefit of the bargain). This theory of mail fraud therefore remains a viable option by which prosecutors can attain federal jurisdiction over frauds that occur in nonfederal elections which employ the mails.

In *United States v. Schermerhorn*, 713 F. Supp. 88 (S.D.N.Y. 1989), aff'd, 906 F.2d 66 (2d Cir. 1990), the salary theory of mail fraud was held to apply to a scheme to violate state campaign financing laws. The facts of the case were egregious: a candidate for the State Senate whose campaign was largely funded by organized crime and who failed to disclose that fact on state campaign financing disclosure forms that were required to be filed by state law. The district judge held that such a concealment resulted in the electorate being misled, and the candidate was thereby able to obtain the office he sought and its salary from a deceived electorate. This district court decision has been advanced as authority for the proposition that violations of state campaign financing laws by candidates seeking state or local office can be federalized and prosecuted under the 18 U.S.C. § 1341. This theory has some support in the *Schermerhorn* case. However, prosecutors should be cautious in applying this theory and consider using it only when the facts that are not disclosed under state or local campaign financing laws would have had a clear and direct impact on voting behavior had the truth been properly reported.

c) "Honest services" frauds: 18 U.S.C. § 1346

As summarized above, prior to *McNally* nearly all of the Circuits had held that a scheme to defraud the public of a fair and impartial election was one of the "intangible rights" schemes to defraud that was reached by the mail and wire fraud statutes. *McNally* repudiated this theory in an opinion that not only rejected the intangible rights theory of mail and wire fraud, but did so by citing several election fraud cases as examples of the kinds of fraud the Court found outside these criminal laws.

The following year, Congress enacted 18 U.S.C. § 1346 for the express purpose of legislatively reversing *McNally* in order to restore sections 1341 and 1343 to the status they enjoyed prior to that decision. However, the language Congress used to achieve this objective did not clearly restore the use of these statutes to election frauds. This is because section 1346 is limited to schemes to deprive a victim of the "intangible right to honest services," and election frauds do not appear to involve such an objective. Moreover, jurisprudence in the arena of public corruption has generally confined section 1346 to schemes involving traditional forms of corruption that involve a clear breach of a fiduciary duty of "honest services" owed by a public official to the body politic: e.g., bribery, extortion, embezzlement, theft, conflicts of interest, and, in some instances, gratuities. See, e.g.,

United States v. Panarella, 277 F.3d 678 (3d Cir. 2002); United States v. Sawyer, 329 F.3d 31 (1st Cir. 2001); United States v. Bloom, 149 F.3d 649 (7th Cir. 1998); United States v. Brumley, 116 F.3d 728 (5th Cir. 1997)(en banc).

Thus, section 1346 did not restore mail and wire fraud jurisdiction to schemes to "defraud the public of a fair and impartial election," and it is the Criminal Division's position that section 1346 does not apply to schemes to corrupt elections

d) "Cost-of-election" theory of 18 U.S.C. §§ 1341 and 1343

One case, United States v. DeFries, 43 F.3d 707 (D.C. Cir. 1995), held that a scheme to cast invalid ballots in a labor union election which had the effect of tainting the election to a point that exposed it to being declared invalid involved, among other things, a scheme to defraud the election authority charged with running the election of the costs involved.

DeFries was not a traditional election fraud prosecution. Rather, it involved corruption of a union election where supporters for one candidate for union office cast fraudulent ballots for the candidate they supported. When the scheme was uncovered, the United States Department of Labor ordered that a new election be held, thereby causing the union to incur an actual pecuniary loss. The D.C. Circuit held that the relationship between that pecuniary loss and the voter fraud scheme was sufficient to satisfy the requirements of McNally.

This theory of prosecution has potential validity primarily where the mail and wire fraud statutes are needed to federalize voter frauds involving the counting of illegal ballots in nonfederal elections, particularly where the fraud has led to a successful election contest and the election authority has been ordered to hold a new election and thereby incur additional costs.

10. Troops at polls: 18 U.S.C. § 592

This statute makes it unlawful to station troops or "armed men" at the polls in a general or special election (but not a primary), except when necessary "to repel armed enemies of the United States." Violations are punishable by imprisonment for up to five years and disqualification from any federal office.

Section 592 prohibits the use of official authority to order armed personnel to the polls; it does not reach the troops who actually go in response to those orders. The effect of this statute is to prohibit FBI agents from conducting investigations within the polls on election day, and United States Marshals from being stationed at open polls. This is because FBI agents and Marshals must be armed while on duty.

This statute applies only to agents of the United States government. It does not prohibit state or local law enforcement agencies from sending police officers to quell disturbances at polling places, nor does it preempt state laws that require police officers to be stationed in polling places.

11. Campaign dirty tricks

Two federal statutes - - both of which are part of the Federal Election Campaign Act (FECA) specifically address campaign tactics and practices: 2 U.S.C. " 441d and 441h. As is the case with all other features of FECA, violations of these two statutes are subject to both civil and criminal penalties, 2 U.S.C. §§ 437g(a) and (d) respectively. These penalties will be discussed in Chapter Six.

Section 441d provides that whenever a person or political committee makes certain types of election-related disbursements, an expenditure for the purpose of financing a public communication advocating the election or

defeat of a clearly identified federal candidate, or a solicitation for the purpose of influencing the election of a federal candidate, the communication must contain an attribution clause identifying the candidate, committee, or person who authorized and/or paid for the communication. The content of the attribution, as well as its size and location in the advertisement are described in the statute.

Section 441h prohibits fraudulently representing one's authority to speak for a federal candidate. As a result of the 2002 Bipartisan Campaign Reform Act, the provision contains two specific prohibitions:

- a) Section 441h(a) forbids a federal candidate or an agent of a federal candidate from misrepresenting his or her authority to speak, write, or otherwise act for any other federal candidate or political party on a matter which is damaging to that other candidate or political party. For example, section 441h(a) would prohibit an agent of federal candidate A from issuing a statement that was purportedly written by federal candidate B and which concerned a matter which was damaging to candidate B.
- b) Section 441h(b) forbids any person from fraudulently representing his or her authority to solicit contributions on behalf of a federal candidate. This provision was added by BCRA and became effective on November 6, 2002. For example, this provision would prohibit any person from raising money by claiming that he or she represented federal candidate A when in fact the person had no such authority.

12. Retention of federal election records: 42 U.S.C. § 1974

The detection, investigation, and proof of election crimes --and in many instances Voting Rights Act violations - often depends on documentation generated during the voter registration, voting, tabulation, and election certification processes. In recognition of this fact, and the length of time it can take for credible election fraud predication to develop, Congress enacted Section 1974 to require that documentation generated in connection with the voting and registration process be retained for 22 months if it pertained to an election that included a federal candidate. Absent this statute, the disposition of election documentation would be subject solely to state law, which in virtually all states permits its destruction within a few months after the election is certified.

Section 1974 provides for criminal misdemeanor penalties for any election administrator who knowingly and willfully fails to retain, or willfully steals, destroys, or conceals, records covered by the statute. 42 U.S.C. § 1974a.23 More importantly, the reach of this statute qualitatively to specific categories of election documentation is critical to prosecutors as well as election administrators, who must often resolve election disputes and answer challenges to the fairness of elections.²⁴

For this reason, a detailed discussion of section 1974 and its application to particular types of election documentation generated in the current age of electronic voting will be presented here.

a) Legislative purpose and background

The voting process generates voluminous documents and records, ranging from voter registration forms and absentee ballot applications to ballots and tally reports. If election fraud occurs, these records often play an important role in the detection and prosecution of the crime. Documentation generated by the election process also plays an equally important role in the detection, investigation and proof of federal civil rights violations.

²³ Specifically, Section 1974a provides that any election administrator or document custodian who willfully fails to comply with the statute is subject to imprisonment for up to one year.

²⁴ Indeed, the federal courts have recognized that the purpose of this federal document retention requirement is to protect the right to vote by facilitating the investigation of illegal election practices. *Kennedy v. Lynd*, 306 F.2d 222 (5th Cir. 1962), cert. denied, 371 U.S. 952 (1963).

State laws generally require that voting documents be retained for sixty to ninety days. Those relatively brief periods are usually insufficient to make certain that voting records will be preserved until more subtle forms of federal civil rights abuses and election crimes have been detected.

In 1960, Congress enacted a federal requirement that extended the document retention period for elections where federal candidates were on the ballot to ~~twenty-two months~~ after the election. Pub. L. 86-449, Title III, § 301, 74 Stat. 88; 42 U.S.C. §§ 1974-1974e. This election documentation retention requirement is backed-up with criminal misdemeanor penalties that apply to election officers and document custodians who willfully destroy covered election records before the expiration of the 22-month federal retention period.

The retention requirements of section 1974 are aimed specifically at election administrators. In a parochial sense, these laws place criminally sanctionable duties on election officials. However, in a broader sense this federal retention law assists election administrators perform more efficiently the tasks of managing elections, and determining winners of elective contests. It does this by requiring election managers to focus appropriate attention on the types of election records under their supervision and control that may be needed to resolve challenges to the election process, and by requiring that they take appropriate steps to insure that those records will be preserved intact until such time as they may become needed to resolve legitimate questions that frequently arise involving the election process. In this way, section 1974 serves the election administrators by better equipping them to respond to legitimate questions concerning the voting process when they arise.

b) The basic requirements of section 1974

Section 1974 requires that election administrators preserve for twenty-two months "all records and papers which come into their possession relating to any application, registration, payment of poll tax, or other act requisite to voting." This retention requirement applies to all elections in which a candidate for federal office was on the ballot, that is, a candidate for the United States Senate, the United States House of Representatives, President or Vice President of the United States, or presidential elector. Section 1974 does not apply to records generated in connection with purely local or state elections.

Retention and disposition of records in purely nonfederal elections (those where no federal candidates were on the ballot) are governed by state document retention laws.

However, section 1974 does apply to all records generated in connection with the process of registering voters and maintaining current electoral rolls. This is because voter registration in virtually all United States jurisdictions is "unitary," in the sense that a potential voter registers only once to become eligible to vote for both local and federal candidates. See *United States v. Ciancuilli*, 482 F.Supp. 585 (E.D.Pa. 1979). Thus, registration records must be preserved as long as the voter registration to which they pertain is considered an "active" one under local law and practice, and those records cannot be disposed of until the expiration of 22 months following the date on which the registration ceased to be "active."

This statute must be interpreted in keeping with its congressional objective: Under section 1974, all documents and records that may be relevant to the detection or prosecution of federal civil rights or election crimes must be maintained if the documents or records were generated in connection with an election which included one or more federal candidates.

c) Section 1974 requires document preservation, not document generation

Section 1974 does not require that states or localities produce records in the course of their election processes. However, if a state or locality chooses to create a record that pertains to voting, this statute requires that documentation to be retained if it pertains to voting in an election covered by the statute.

d) Originals must be retained

Section 1974 further requires that the original documents be maintained, even in those jurisdictions that have the capability to reduce original records to digitized replicas. This is because handwriting analysis cannot at present be performed on digitized reproductions of signatures, and because the legislative purpose advanced by this statute is to preserve election records for their evidentiary value in criminal and civil rights lawsuits. Therefore, in states and localities that employ new digitization technology to archive election forms that were

originally manually subscribed by voters, Section 1974 requires that the originals be maintained for the requisite 22-month period.

e) Election officials must supervise storage

Section 1974 requires that covered election documentation be retained either physically by election officials themselves, or under the direct administrative supervision of election officers. This is because the document retention requirements of this federal law place the retention and safe-keeping duties squarely on the shoulders of election officers, and Section 1974 does not contemplate that this responsibility be shifted to other government agencies or officers.

An electoral jurisdiction may validly determine that election records subject to section 1974 would most efficiently be kept under the physical supervision of government officers other than election officers (e.g., motor vehicle departments, social service administrators). This is particularly likely to occur following the enactment of the NVRA, which for the first time in many states gives government agencies other than election administrators a substantive role in the voter registration process.

If an electoral jurisdiction makes such a determination, section 1974 requires that administrative procedures be in place giving election officers ultimate management authority over the retention and security of those election records. Those administrative procedures should insure that election officers retain ultimate responsibility for the retention and security of covered election documents and records, and that election officers retain the right to physically access and dispose of them.

f) Retention not required for certain records

Section 1974 does not apply to surplus voting materials that are not used in elections where federal candidates were on the ballot. Examples of such surplus materials include unused ballots and forms, inventories of supplies, payroll and personnel records pertaining to the hiring, training or payment of election officials, and other documents that do not reflect or embody a step in the registration or the voting process. Section 1974 only requires the retention of documentation that results in, or which reflects, an act of registering to vote or voting, or a step in the vote tabulation and election certification process.

Documentation generated in the course of elections held solely for local or state candidates, or bond issues, initiatives, referenda and the like, is not covered by Section 1974 and may be disposed of within the usually shorter time periods provided under state election laws. However, if there is a federal candidate on the ballot in the election, the 22-month federal retention requirement applies.

g) Retention under Section 1974 versus retention under the National Voter Registration Act

The retention requirements of section 1974 interface significantly with somewhat similar retention requirements of the National Voter Registration Act, 42 U.S.C. § 1973gg-6(i).

There differences between these two provisions are threefold:

First, section 1974 applies to all records generated by the election process, while section 1973gg-6(i) applies only to registration records generated under the NVRA.

Second, section 1974 requires only that records subject to its terms be retained intact for the requisite 22-month period, while section 1973gg-6(i) requires that registration records be both retained and -- with certain specifically noted exceptions -- be made available to the public for inspection for 24 months.

Third, violations of section 1974 by election administrators are subject to *criminal sanctions*, while violations of section 1973gg-6(i) are subject only to noncriminal remedies.

E. CONCLUDING COMMENTS: WHY PROSECUTING ELECTION CRIMES IS IMPORTANT

I conclude this paper with an editorial of March 19, 2004, in the Big Sandy News of Eastern Kentucky concerning a recent series of vote buying prosecutions in a rural jurisdiction in the Appalachian Mountains of Eastern Kentucky. The editorial comments on the sentencing of the County Judge-Executive of Knott County and a campaign worker for vote buying. It appears here with the permission of the Big Sandy News, whose late Publisher and Editor, Scott Perry, as an Eastern Kentucky newspaper man, led a strong charge against public corruption and took a proactive role in the fight.

In Kentucky, county judge-executives are the chief operating officers of county government, and, as such, occupy a position of substantial power. Judge Donnie Newsome's conviction culminated a series of vote buying cases the Public Integrity Section and the United States Attorney's Office for the Eastern District of Kentucky jointly prosecuted during 2003 and early 2004 that arose out of a scheme to pay voters for voting in the 1998 primary. This series of cases ultimately resulted in the indictment of 16 defendants. Twelve of these defendants were convicted, three defendants were acquitted, and one defendant's case was dismissed. The highlight of this series of election fraud cases was the conviction of Knott County Judge-Executive Donnie Newsome for for vote buying in violation of 42 U.S.C. § 1973i©. Thereafter, the defendant cooperated with the prosecution and received a sentence reduction recommendation under U.S.S.G. §5K1.1. On March 16, 2004, he was sentenced to serve 26 months in prison.²⁵

²⁵ The sentencing judge indicated that had it not been for the downward departure recommended by the prosecution, he was prepared to sentence Newsome to five years' imprisonment.

The following editorial, reprinted here in its entirety, presents an eloquent yet concise statement of why the investigation and prosecution of electoral corruption are important law enforcement priorities of the Justice Department.

Vote fraud sentencing sad, encouraging
-- by Susan Allen

Tuesday's sentencing in federal court of Knott County Judge-Executive Donnie Newsome and campaign worker Willard Smith on vote buying charges was both a sad and encouraging day for Eastern Kentucky.

Sad the people of Knott County were effectively robbed of their voting rights by Newsome and others doling out cash to buy a public office.

Sad that, as Federal Judge Danny C. Reeves pointed out, some people in Knott and other counties think that elections are supposed to be bought and the only reason to go to the polls is to get their pay off.

Sad those seeking public office in Knott County, and most assuredly in other counties, target poor, handicapped, addicted and uneducated voters to carry out their scheme to secure public office and a hefty paycheck.

Sad that voters in Knott and other counties have been reduced by years and years of political corruption to truly believing that selling their vote is not wrong, it's the norm.

Sad that Eastern Kentuckians have pretty much been left to the mercy of the political machines which serve as dictators of their lives, from their home towns all the way to Frankfort.

Sad that generations sacrificed their lives and their children's lives to the political bosses for mere bones from their local leaders while now their kids are dying from drug overdoses which, we strongly suspect, are directly tied to the years of iniquity and demoralization.

Sad that even today some elected officials continue the abuse and either refuse or can't comprehend the impact of their past and current atrocities against their own people.

Sad that Judge Reeves could see and completely understand during just a one week trial the utter hopelessness and apathy in the area people feel regarding the so-called democratic process.

Sad that our state lawmakers have piddled away their time during this legislative session on petty political issues without even proposing laws that would bar convicted felons, especially vote buyers from retaining their offices while appealing their verdicts.

Sad that Donnie Newsome continues to rule Knott County from a jail cell.

Tuesday's events were encouraging in that prosecutors (AUSA E.D. Ky.) Tom Self and (Public Integrity Section Trial Attorney) Richard Pilger were willing to fight the hard battle for the people of Knott County, which hopefully will lead to at least a grassroots effort for people to take back their towns.

Encouraging that some light has been shed on the workings of the dark political underworld which might shock the good people of Eastern Kentucky into action, at least for their children's future.

Encouraging that what might be perceived as a baby step with Newsome's conviction could finally lead to that giant step Eastern Kentuckians must surely be ready to take to recapture control of their own destinies.

Encouraging that federal authorities have pledged to continue the fight they have started to restore to the people the right to

govern themselves without dealing with a stacked deck.

Encouraging that Judge Reeves and prosecutors did see that the Knott Countians who sold their votes, in some cases for food, were victims of Newsome's plot and didn't need to be punished further.

Encouraging that there's some branch of government, in this case on the federal level, not shy about taking on political power houses, knowing the obstacles in their way will be many.

Encouraging that Newsome's lips have loosened regarding others involved in similar schemes to buy public office, even though we suspect it has nothing to do with righting the wrongs, only a self-serving move to spend less days behind bars.

Encouraging that maybe, for once, we are not in this fight alone and have a place to turn to for help when we are willing to stand up to the machine.

The feds have helped us take that first step toward getting back what is rightfully ours which has been traded away by others in the past in back room deals. Not only do they need our help, they need our help.

This time, let's not let ourselves down.

APPENDIX -- STATUTORY TEXTS

The following are the actual statutory texts of the criminal laws referred to in the foregoing paper:

1. EXCERPTS FROM TITLE 18, UNITED STATES CODE

§ 241. Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; ...

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section they shall be fined under this title or imprisoned for any term of years or for life, or both.

§ 242. Deprivation of rights under color of law

Whoever, under color of law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section imprisoned for any term of years or for life, or both.

§ 245. Federally protected activities

(a)(1) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law. No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice, which function of certification may not be delegated.

(2) Nothing in this subsection shall be construed to limit the authority of Federal officers, a Federal grand jury, to investigate possible violations of this section.

(b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with--

(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from--

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any

primary, special, or general election;

* * * * *

shall be fined under this title, or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section shall be fined under this title or imprisoned for any term of years or for life, or both.

* * * * *

§ 592. Troops at polls

Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the armed forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

§ 593. Interference by armed forces

Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties--

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district.

§ 594. Intimidation of voters

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 595. Interference by administrative employees of Federal, State, or Territorial Governments

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization.

§ 596. Polling armed forces

Whoever, within or without the Armed Forces of the United States, polls any member of such forces, either within or without the United States, either before or after he executes any ballot under any Federal or State law, with reference to his choice of or his vote for any candidate, or states, publishes, or releases any result of any purported poll taken from or among the members of the Armed Forces of the United States or including within it the statement of choice for such candidate or of such votes cast by any member of the Armed Forces of the United States, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

The word "poll" means any request for information, verbal or written, which by its language or form of expression requires or implies the necessity of an answer, where the request is made with the intent of compiling the result of the answers obtained, either for the personal use of the person making the request, or for the purpose of reporting the same to any other person, persons, political party, unincorporated association or corporation, or for the purpose of publishing the same orally, by radio, or in written or printed form.

§ 597. Expenditures to influence voting

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote--

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

§ 598. Coercion by means of relief appropriations

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 599. Promise of appointment by candidate

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

§ 600. Promise of employment or other benefit for political activity

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

§ 601. Deprivation of employment or other benefit for political contribution

(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of--

(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State; if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined not more than \$10,000, or imprisoned not more than one year, or both.

(b) As used in this section--

- (1) the term "candidate" means an individual who seeks nomination for election, or election, to Federal, State, or local office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal, State, or local office, if he has (A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;
- (2) the term "election" means (A) a general, special primary, or runoff election, (B) a convention or caucus of a political party held to nominate a candidate, (C) a primary election held for the selection of delegates to a nominating convention of a political party, (D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (E) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State; and
- (3) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

§ 602. Solicitation of political contributions

- (a) It shall be unlawful for--
 - (1) a candidate for the Congress;
 - (2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;
 - (3) an officer or employee of the United States or any department or agency thereof; or
 - (4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States; to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both.
- (b) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.

§ 603. Making political contributions

- (a) It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 to any other such officer, employee or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.
- (b) For purposes of this section, a contribution to an authorized committee as defined in section 302(e)(1) of the Federal Election Campaign Act of 1971 shall be considered a contribution to the individual who has authorized such committee.

(c) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.

§ 604. Solicitation from persons on relief

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 605. Disclosure of names of persons on relief

Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and

Whoever receives any such list or names for political purposes--

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

§ 606. Intimidation to secure political contributions

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

§ 607. Place of solicitation

(a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, provided, that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971.

§ 608. Absent uniformed services voters and overseas voters

- (a) Whoever knowingly deprives or attempts to deprive any person of a right under the Uniformed and Overseas Citizens Absentee Voting Act shall be fined in accordance with this title or imprisoned not more than five years, or both.
- (b) Whoever knowingly gives false information for the purpose of establishing the eligibility of any person to register or vote under the Uniformed and Overseas Citizens Absentee Voting Act, or pays or offers to pay, or accepts payment for registering or voting under such Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

§ 609. Use of military authority to influence vote of member of Armed Forces

Whoever, being a commissioned, noncommissioned, warrant, or petty officer of an Armed Force, uses military authority to influence the vote of a member of the Armed Forces or to require a member of the Armed Forces to march to a polling place, or attempts to do so, shall be fined in accordance with this title or imprisoned not more than five years, or both. Nothing in this section shall prohibit free discussion of political issues or candidates for public office.

§ 610. Coercion of political activity

It shall be unlawful for any person to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce, any employee of the Federal Government as defined in section 7322(1) of title 5, United States Code, to engage in, or not engage in, any political activity, including, but not limited to, voting or refusing to vote for any candidate or measure in any election, making or refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

§ 911. Citizen of the United States

Whoever falsely and willfully represents himself to be a citizen of the United States shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

§ 1341. Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, [FN2] or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

§ 1346. Definition of "scheme or artifice to defraud"

For the purposes of this chapter, the term "scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right of honest services.

§ 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises

- (a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to--
- (1) distribute the proceeds of any unlawful activity; or
 - (2) commit any crime of violence to further any unlawful activity; or
 - (3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.
- (b) As used this section (i) "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102(6) of the Controlled Substances Act), or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States, or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title and (ii) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.
- (c) Investigations of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury.

2. EXCERPTS FROM TITLE 42, UNITED STATES CODE

§ 1973i. Prohibited acts:

False information in registering or voting; penalties

- (c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than \$10,000 or imprisoned not more than five years, or both: Provided, however, That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

Voting more than once

- (e)(1) Whoever votes more than once in an election referred to in paragraph (2) shall be fined not more than \$10,000 or imprisoned not more than five years, or both.
- (2) The prohibition of this subsection applies with respect to any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.
- (3) As used in this subsection, the term "votes more than once" does not include the casting of an additional ballot if all prior ballots of that voter were invalidated, nor does it include the voting in two jurisdictions under section 1973aa-1 of this title, to the extent two ballots are not cast for an election to the same candidacy or office.

§ 1973gg-10. Criminal penalties

A person, including an election official, who in any election for Federal office--

- (1) knowingly and willfully intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person for--
 - (A) registering to vote, or voting, or attempting to register to vote;
 - (B) urging or aiding any person to register to vote, to vote, or to attempt to register to vote; or
 - (C) exercising any right under this subchapter; or
- (2) knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a State of a fair and impartially conducted election process, by--
 - (A) the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held; or
 - (B) the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held, shall be fined in accordance with title 18 (which fines shall be paid into the general fund of the Treasury, miscellaneous receipts (pursuant to section 3302 of title 31), notwithstanding any other law), or imprisoned not more than 5 years, or both.

(Pub.L. 103-31, § 12, May 20, 1993, 107 Stat. 88.)

SUBCHAPTER B. COUNTY ELECTIONS ADMINISTRATOR

§ 31.032. APPOINTMENT OF ADMINISTRATOR; COUNTY ELECTION COMMISSION.

(a) The position of county elections administrator is filled by appointment of the county election commission, which consists of:

- (1) the county judge, as chair;
- (2) the county clerk, as vice chair;
- (3) the county tax assessor-collector, as secretary; and
- (4) the county chair of each political party that made

nominations by primary election for the last general election for state and county officers preceding the date of the meeting at which the appointment is made.

(b) The affirmative vote of a majority of the commission's membership is necessary for the appointment of an administrator.

(c) Each appointment must be evidenced by a written resolution or order signed by the number of commission members necessary to make the appointment. Not later than the third day after the date an administrator is appointed, the officer who presided at the meeting shall file a signed copy of the resolution or order with the county clerk. Not later than the third day after the date the copy is filed, the county clerk shall deliver a certified copy of the resolution or order to the secretary of state.

(d) The initial appointment may be made at any time after the adoption of the order creating the position.

§ 31.035. RESTRICTIONS ON POLITICAL ACTIVITIES.

(a) A county elections administrator may not be a candidate for a public office or an office of a political party, hold a public office, or hold an office of or position in a political party. At the time an administrator becomes a candidate or accepts an office or position in violation of this subsection, the administrator vacates the position of administrator.

(b) A county elections administrator commits an offense if the administrator makes a political contribution or political expenditure, as defined by the law regulating political funds and campaigns, or publicly supports or opposes a candidate for public office or a measure to be voted on at an election. An offense under this subsection is a Class A misdemeanor. On a final conviction, the administrator's employment is terminated, and the person convicted is ineligible for future appointment as county elections administrator.

SEC. 101. PAYMENTS TO STATES FOR ACTIVITIES TO IMPROVE ADMINISTRATION OF ELECTIONS.

(a) In General.--Not later than 45 days after the date of the enactment of this Act, the Administrator of General Services (in this title referred to as the "Administrator") shall establish a program under which the Administrator shall make a payment to each State in which the chief executive officer of the State, or designee, in consultation and coordination with the chief State election official, notifies the Administrator not later than 6 months after the date of the enactment of this Act that the State intends to use the payment in accordance with this section.

(b) Use of Payment.--

(1) In general.--A State shall use the funds provided under a payment made under this section to carry out 1 or more of the following activities:

(A) Complying with the requirements under title III.

(B) Improving the administration of elections for Federal office.

(C) Educating voters concerning voting procedures, voting rights, and voting technology.

(D) Training election officials, poll workers, and election volunteers.

(E) Developing the State plan for requirements payments to be submitted under part 1 of subtitle D of title II.

(F) Improving, acquiring, leasing, modifying, or replacing voting systems and technology and methods for casting and counting votes.

(G) Improving the accessibility and quantity of polling places, including providing physical access for individuals with disabilities, providing nonvisual access for individuals with visual impairments, and providing assistance to Native Americans, Alaska Native citizens, and to individuals with limited proficiency in the English language.

(H) Establishing toll-free telephone hotlines that voters may use to report possible voting fraud and voting rights violations, to obtain general election information, and to access detailed automated information on their own voter registration status, specific polling place locations, and other relevant information.

SEC. 221. TECHNICAL GUIDELINES DEVELOPMENT COMMITTEE.

e) Technical Support From National Institute of Standards and Technology.--

(1) In general.--At the request of the Development Committee, the Director of the National Institute of Standards and Technology shall

provide the Development Committee with technical support necessary for the Development Committee to carry out its duties under this subtitle.

(2) Technical support.--The technical support provided under paragraph (1) shall include intramural research and development in areas to support the development of the voluntary voting system guidelines under this part, including--

(A) the security of computers, computer networks, and computer data storage used in voting systems, including the computerized list required under section 303(a);

(B) methods to detect and prevent fraud;

SEC. 242. STUDY, REPORT, AND RECOMMENDATIONS ON BEST PRACTICES FOR FACILITATING MILITARY AND OVERSEAS VOTING.

(a) Study.--

(1) In general.--The Commission, in consultation with the Secretary of Defense, shall conduct a study on the best practices for facilitating voting by absent uniformed services voters (as defined in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act) and overseas voters (as defined in section 107(5) of such Act).

(2) Issues considered.--In conducting the study under paragraph (1) the Commission shall consider the following issues:

(A) The rights of residence of uniformed services voters absent due to military orders.

(B) The rights of absent uniformed services voters and overseas voters to register to vote and cast absentee ballots, including the right of such voters to cast a secret ballot.

(C) The rights of absent uniformed services voters and overseas voters to submit absentee ballot applications early during an election year.

(D) The appropriate preelection deadline for mailing absentee ballots to absent uniformed services voters and overseas voters.

(E) The appropriate minimum period between the mailing of absentee ballots to absent uniformed services voters and overseas voters and the deadline for receipt of such ballots.

(F) The timely transmission of balloting materials to absent uniformed services voters and overseas voters.

(G) Security and privacy concerns in the transmission, receipt, and processing of ballots from absent uniformed services voters and overseas voters, including the need to protect against fraud.

SEC. 245. STUDY AND REPORT ON ELECTRONIC VOTING AND THE ELECTORAL PROCESS.

(a) Study.--

(1) In general.--The Commission shall conduct a thorough study of issues and challenges, specifically to include the potential for election fraud, presented by incorporating communications and Internet technologies in the Federal, State, and local electoral process.

(2) Issues to be studied.--The Commission may include in the study conducted under paragraph (1) an examination of--

(A) the appropriate security measures required and minimum standards for certification of systems or technologies in order to minimize the potential for fraud in voting or in the registration of qualified citizens to register and vote;

(B) the possible methods, such as Internet or other communications technologies, that may be utilized in the electoral process, including the use of those technologies to register voters and enable citizens to vote online, and recommendations concerning statutes and rules to be adopted in order to implement an online or Internet system in the electoral process;

(C) the impact that new communications or Internet technology systems for use in the electoral process could have on voter participation rates, voter education, public accessibility, potential external influences during the elections process, voter privacy and anonymity, and other issues related to the conduct and administration of elections;

(D) whether other aspects of the electoral process, such as public availability of candidate information and citizen communication with candidates, could benefit from the increased use of online or Internet technologies;

(E) the requirements for authorization of collection, storage, and processing of electronically generated and transmitted digital messages to permit any eligible person to register to vote or vote in an election, including applying for and casting an absentee ballot;

(F) the implementation cost of an online or Internet voting or voter registration system and the costs of elections after implementation (including a comparison of total cost savings for the administration of the electoral process by using Internet technologies or systems);

(G) identification of current and foreseeable online and Internet technologies for use in the registration of voters, for voting, or for the purpose of reducing election fraud, currently available or in use by election authorities;

(H) the means by which to ensure and achieve equity of access to online or Internet voting or voter registration systems and address the fairness of such systems to all citizens; and

(I) the impact of technology on the speed, timeliness, and accuracy

of vote counts in Federal, State, and local elections.

(b) Report.--

(1) Submission.--Not later than 20 months after the date of the enactment of this Act, the Commission shall transmit to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate a report on the results of the study conducted under subsection (a), including such legislative recommendations or model State laws as are required to address the findings of the Commission.

(2) Internet posting.--In addition to the dissemination requirements under chapter 19 of title 44, United States Code, the Election Administration Commission shall post the report transmitted under paragraph (1) on an Internet website.

SEC 302(b) Voting Information Requirements.--

(1) Public posting on election day.--The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

(2) Voting information defined.--In this section, the term "voting information" means--

(A) a sample version of the ballot that will be used for that election;

(B) information regarding the date of the election and the hours during which polling places will be open;

(C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;

(D) instructions for mail-in registrants and first-time voters under section 303(b);

(E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and

(F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

(c) Voters Who Vote After the Polls Close.--Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order.

(d) Effective Date for Provisional Voting and Voting Information.--Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2004.

SEC. 904. REVIEW AND REPORT ON ADEQUACY OF EXISTING ELECTORAL FRAUD STATUTES AND PENALTIES.

(a) Review.--The Attorney General shall conduct a review of existing criminal statutes concerning election offenses to determine--

- (1) whether additional statutory offenses are needed to secure the use of the Internet for election purposes; and
- (2) whether existing penalties provide adequate punishment and deterrence with respect to such offenses.

(b) Report.--The Attorney General shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives, the Committee on Rules and Administration of the Senate, and the Committee on House Administration of the House of Representatives on the review conducted under subsection (a) together with such recommendations for legislative and administrative action as the Attorney General determines appropriate.

SEC. 905. OTHER CRIMINAL PENALTIES.

(a) Conspiracy To Deprive Voters of a Fair Election.--Any individual who knowingly and willfully gives false information in registering or voting in violation of section 11(c) of the National Voting Rights Act of 1965 (42 U.S.C. 1973i(c)), or conspires with another to violate such section, shall be fined or imprisoned, or both, in accordance with such section.

(b) False Information in Registering and Voting.--Any individual who knowingly commits fraud or knowingly makes a false statement with respect to the naturalization, citizenry, or alien registry of such individual in violation of section 1015 of title 18, United States Code, shall be fined or imprisoned, or both, in accordance with such section.

Statement of
Barry H. Weinberg
Before the
Subcommittee on the Constitution
Committee on the Judiciary
United States House of Representatives
Concerning

The Voting Rights Act: Sections 6, 7 and 8– Federal Examiner and Observer Provisions

November 15, 2005

Chairman Chabot, Ranking Member Nadler, distinguished members of the Subcommittee:

Thank you for inviting me to talk this afternoon about the federal examiner and federal observer provisions of the Voting Rights Act.

There are three central questions on the retention of the federal examiner and federal observer provisions of the Voting Rights Act:

1. Are the federal examiner and federal observer provisions still needed?

The federal observer provision is still needed. Most of the federal examiner provisions are no longer are needed.

2. Should the initial assignment of federal observers to a jurisdiction remain dependent on the certification of the jurisdiction for federal examiners?

No, but a certification-like decision should be required when federal observers are initially assigned to a jurisdiction.

3. Should the federal observer provision remain solely as a law enforcement tool, or should the findings of the observers be made immediately available to the public?

The federal observer provision should remain as a law enforcement function. Publication of the observers' findings would be detrimental to that function.

The following is an overview of the federal examiner and federal observer provisions of the Voting Rights Act, my experience with them, and the reasons why I

have answered the questions as I have. This recitation is followed by a detailed explanation of the Voting Rights Act's provisions for federal examiners and observers—Sections 6, 7 and 8 of the Voting Rights Act—and fact situations and federal court cases that demonstrate why the federal observer provisions are still needed.

The federal examiner and federal observer provisions had a real impact on African Americans in the South.

I was a lawyer in the United States Justice Department's Civil Rights Division from 1966 until my retirement in January 2000. Beginning in 1973 I was partly, and shortly thereafter, wholly in charge of the Justice Department's responsibilities for the federal examiner and federal observer programs. But I began working in the Civil Rights Division as a law clerk in the summer of 1965, and I was there on August 6, 1965, when the Voting Rights Act became law. Shortly after the Act was passed I was assigned to accompany the many other employees of the Civil Rights Division who were working out of an office set up in the federal building in Selma, Alabama. Our primary job was to investigate the beatings suffered by people who earlier that year attempted to march from Selma to Montgomery, Alabama, to protest the disenfranchisement of African Americans in Alabama.

I traveled with Civil Rights Division lawyers from county to county in West Central Alabama to determine the identity of the victims of those beatings and to interview them. As we traveled, we also got information on possible violations of the provisions of the Civil Rights Act of 1964, and we stopped into the offices where federal examiners were giving African Americans their first easy, safe and fair opportunity to register vote. (Local voter registration hours and locations were so restrictive that some white people took advantage of the easy federal voter registration opportunities too.)

Those events gave rise to the issues we are addressing now, 40 years later. A discussion of these issues can easily get blurred by a numbing recitation of legal statutes, provisions and clauses, because that is how the Voting Rights Act is written. I will set out those citations later in my statement by providing sections of an article my wife and I published in the Spring 2002 edition of the Temple Political and Civil Rights Law Review. But first I want to review the federal examiner and federal observer provisions of the Voting Rights Act as they applied to people and voting in the real world.

Under the structure of the Voting Rights Act, a federal examiner can be assigned to any site in the states and counties that are specially covered under the Act's formulae in Section 4, after the county has been certified by the Attorney General of the United States (or in any county certified by court order). Of course, under the structure of the Voting Rights Act, the federal examiners do not technically register people to vote: they examine applicants as to their eligibility under state voter registration laws that are otherwise Constitutional, and then put those applicants who are found to be eligible on a list. The list is given to the local county voter registrar who is required by the Voting Rights Act to enter the eligible applicants' names on the local voter registration rolls.

In the summer and fall of 1965 people were lined up day after day to take advantage of their first opportunity to register to vote. The federal examiners were Civil Service Commission investigators who had been pulled off of the routine jobs they had been doing and sent to sites in Alabama and other Southern states that had been designated by the U.S. Attorney General for federal listing. Besides listing voter applicants, the examiners were available to take complaints about listed people who had not been placed on the county voter registration rolls.

Those examiners were not, on the whole, a happy group. Their presence in small groups of two or three was obvious in town, and their work was opposed by many of white people there. In the main, they ate alone, walked alone and talked mostly to each other. The examiners were eager to know from us, on our rounds, when they would be able to go home. Still, they persevered, and in the end they accounted for the registration of tens of thousands of people who had been discriminatorily kept off of the voter registration rolls. From 1965 to 1972 federal examiners were responsible for the registration of over 170,000 voters. They achieved a signal victory in the fight against racial discrimination in voting.

As the Voting Rights Act is structured, federally registered voters have continuing protection against attempts at keeping them from voting. In any county that has been certified for a federal examiner, the Voting Rights Act authorizes the United States Office of Personnel Management (the successor to the United States Civil Rights Commission) to assign federal observers to polling places as requested by the U.S. Attorney General, to watch voting and vote counting procedures. (Note that the certification of a county for federal examiners is a prerequisite for the assignment of federal observers, but the presence of federally listed voters in the county is not.)

That protection was badly needed in the mid-1960s for newly registered African American voters as they entered the polling places and weathered the stares of white voters and the hostility of the polling place officials. Some examples of the humiliations they faced are set out later in my statement. But for now it is enough to know that they, too, persevered, and under the protective presence of the federal observers, they cast their ballots and participated in the political life of the county for the first time.

The federal observers' job is to watch and take notes. If polling place officials choose to violate their own procedures in order to humiliate racial or minority language voters, or intimidate them, or refuse to allow them the same voting privileges in the polls as the white voters, the federal observers cannot intervene. The observers in a county have co-captains who travel from polling place to polling place, checking with the observers and getting information from them. Those observer co-captains call regularly to a central office established by the Office of Personnel Management. Originally, and for many years, this central office was known as the examiner's office, which had been established for the examiner to take complaints as is required by Section 12(e) of the Voting Rights Act. In the examiner's office there also was a lawyer from the Justice Department's Civil Rights Division (usually from the Voting Section, *nee* Voting and Public Accommodations Section). Today, since the examiner has little or no function,

especially in a county where there are no federally registered voters, the office used in the county on election day is referred to as the captain's office. The observer captain along with a Civil Rights Division attorney are there to receive the calls and the information from the observer co-captains.

When irregularities arise the Division lawyer relays the information about the irregularities to the county official in charge of the election, and allows the county official to take action to correct the irregularities. Where corrective action is not taken or is inadequate, a civil action can be filed later under the Voting Rights Act. A civil action, such as the one described below involving Conecuh County, Alabama, can use the reports of federal observers as effective and unassailable evidence of racially discriminatory actions of polling place officials. After the election the observers provide their reports to the federal examiner, the Attorney General and, if appropriate, to a federal court (if the county is certified for an examiner by a court).

The work of the federal observers as described here continued in the South largely unchanged through the 1990s. These procedures apply too, to the work of federal observers in other areas of the country with important modifications to deal with geographical differences and activities in polling places involving minority language voters.

Federal observers are necessary, federal examiners are not necessary.

Violations of the Voting Rights Act continue to happen in polling places throughout the United States. The need for federal observers to document discriminatory treatment of racial and language minority voters in the polls has not waned. The use of a thousand or more federal observers at election after election beginning in 1965 decreased to the use of hundreds of observers at elections after the early 1980s as a result of the effective enforcement of the Voting Rights Act in Southern states. But the enforcement of the language minority provisions of the Voting Rights Act, added in 1975, has required the use of hundreds more federal observers to disclose to Justice Department attorneys evidence of harassment of members of language minority groups, and instances where ballots and other election material and procedures are not available to those voters in a language they can understand. The result is that between 300 and 600 federal observers continued to be needed annually from 1984 to 2000.

The facts supplied by federal observers to Civil Rights Division attorneys are crucial and irreplaceable in the enforcement of the Voting Rights Act. Most parts of the voting process are open to the public, and the evidence of Voting Rights Act violations that are involved in the voting process can be obtained by Justice Department lawyers through routine investigations. But most state laws limit access to polling places on election day, allowing only voters and polling place officials to remain in the polls (police are allowed too when called to deal with disturbances). Thus, unless an exception is made in these rules to allow federal investigators to get special access to the polls, the harassment of racial and minority language voters and other violations of the Voting Rights Act inside the polling places would go unseen and unchecked.

Federal observers have special access to polling places under the authority of the Voting Rights Act even where access to Justice Department attorneys is otherwise barred. Federal observers thus become the attorneys' eyes and ears. The discriminatory treatment of racial and minority language voters witnessed by the federal observers, as discussed in detail below, runs the gamut from actions that make those voters feel uncomfortable by talking rudely to them, or ridiculing their need for assistance in casting their ballot, to actions that bar them from voting, such as failing to find their names on the lists of registered voters and refusing to allow them to vote on provisional ballots, or misdirecting them to other polling places.

Minority language voters suffer additional discriminatory treatment when people who speak only English are assigned as polling place workers in areas populated by minority language voters. The polling place workers fail to communicate the voting rules and procedures to the voters, or fail to respond to the voters' questions. In some instances, qualified registered voters have been told that they are not permitted to vote because they have not furnished necessary information, such as their address, even when they have provided the information; the poll worker was unable to understand what the voters were saying, but a speaker of the minority language would have understood.

Civil Rights Division lawyers who receive facts from federal observers about violations of the Voting Rights Act provide those facts directly to the election officials in the jurisdictions involved, allowing them to take corrective action in compliance with the Act. In other instances, those facts are used to secure court orders requiring that the jurisdictions involved to comply with the dictates of the Voting Rights Act. In either approach, the end result fulfills the goal of the Voting Rights Act to allow United States citizens to cast their ballots on election day freely and fairly, without distinction because of their race or membership in a language minority group.

That the work of the federal observers is a part of a law enforcement effort—the enforcement of the Voting Rights Act—is especially true where the information from the federal observers is provided in the context of a lawsuit, where a court has certified a county that was not specially covered under the Voting Rights Act. In that situation, the information is given to the court and affects the position of the parties (the Justice Department and the county) with respect to the actions the jurisdiction must take to comply with the Act (the relief that is ordered in the case). Some local election officials have come to welcome the information obtained by federal observers as an additional source showing the extent to which the county's polling place officials are complying with the provisions of the Voting Rights Act.

However, the initial assignment of federal observers to a county today remains dependant on the certification of the county for the assignment of federal examiners even though federal examiners are largely unnecessary any more for listing voter applicants. There has been no federal listing of voters since the 1970s, apart from an isolated flurry of voter listing in Georgia in 1982 and another isolated flurry in Mississippi in 1983. Discriminatory actions against racial and language minority group members are not

caused by their status as federally registered voters. And examiners no longer receive complaints on election day with respect to federally listed voters. I do not recall any complaints that were received centering on mistreatment of federally listed voters over the last 20 years of my supervision of the federal observer and examiner programs, and few, if any such complaints before that. (Complaints about other matters are made to the examiner, but they routinely involve matters for which the federal observers have been assigned to the county, and are just as easily, and more effectively fielded by the federal observer captain in the county.) Moreover, the enforcement of the Voting Rights Act and the enactment of new easy voter registration laws, such as the National Voter Registration Act (the motor voter law), have made the possibility of future listings by federal examiners highly unlikely.

Further, the Office of Personnel Management must continue to keep the lists of federally listed voters up to date regarding changes of name, changes of address and, as the years have gone by, of deaths. Those voters cannot be removed from the voter rolls without the approval of the Office of Personnel Management, and the lists continued to be provided for election day use by those counties where there are federally listed voters. In fact, these lists are no longer used for any practical purpose, and their maintenance should be discontinued.

It is possible that federal examiners may be needed in the future for voter listing in a situation where the dictates of the Voting Rights Act are met, so the Voting Rights Act's authorization for federal examiners to conduct listing activity should be retained. But there is no reason to continue to tie the assignment of federal observers to the appointment of a federal examiner. I believe that, apart from the possible need for listing voters, the federal examiner provisions are outdated and are no longer needed in the Voting Rights Act, especially the requirement that an examiner be appointed as a prerequisite for the assignment of federal observers to a county.

But the procedure for the certification of a county for federal examiners under Section 6 of the Act serves an important purpose: it requires the Justice Department to conduct an intensive investigation to support the certification, and thus makes the federal government responsible for taking action regarding local election procedures only on the basis of complete and compelling facts. I believe that some manner of certification should remain a prerequisite for the initial assignment of federal observers to a county and, once certified, that a county would remain certified, as is now the case, until it acted to eliminate the certification (the formula under Section 13 for terminating certification would be changed).

If such a new certification procedure would be instituted, the requirement that the United States Attorney General personally must sign the certification, as is now the case, would be unnecessary. This authority for executing a certification should be allowed to be delegated to the Assistant Attorney General for Civil Rights. To my recollection, the Attorney General has signed every certification that has been recommended by the Assistant Attorney General for Civil Rights. Nor would the Attorney General's signature be needed any more to assure the importance of the certification if the only consequence

of a certification would be simply to allow federal observers to witness polling place procedures. The delegation to the Assistant Attorney General for Civil Rights of the responsibility for a certifying a county for the presence of federal observers would be similar to the delegation of authority to the Assistant Attorney General to object to changes in voting practices and procedures under Section 5 of the Voting Rights Act.

The purpose of the present requirement in the Voting Rights Act that the Attorney General's certification of a county be published in the Federal Register is to give notice of the location of the federal examiner's office. Since it no longer will be necessary to have an office for a federal examiner when federal observers are assigned, the publication of the location of that office also will be unnecessary. Those who will most need to know of the assignment of federal observers—county officials and minority group representatives—always are informed personally by Civil Rights Division attorneys, and other members of the community easily learn of the observers' presence from Division attorneys, local press reporting and word of mouth.

Accordingly, I believe that the federal observer provision is still necessary to the enforcement of the Voting Rights Act, but the Voting Rights Act no longer should tie the assignment of federal observers to the appointment of a federal examiner. The Act should allow a certification function, newly directed only to the assignment of federal observers, to be delegated to the Assistant Attorney General for Civil Rights. The requirement for publication of the certification in the Federal Register—an adjunct of the federal examiner function—should be eliminated as a prerequisite to the initial assignment of federal observers.

Federal observers' work should continue to be a law enforcement function.

I also recommend that the function of the federal observers remain as it is: as witnesses in a law enforcement function. The question arises because, since my retirement, I have been an observer four times in other countries as a part of an international observer corps assembled by the Organization for Security and Cooperation in Europe (OSCE) under its Office for Democratic Institutions and Human Rights (ODIHR). The forms these observers use list polling place procedures and have a place for the observer's rating from good to bad (1 to 3, or 1 to 5) for each procedure. There are separate forms for the opening of the polls, for voting during the day, and for the closing of the polls. A fourth form allows for fuller explanation of any item or event.

The object of the observation by ODIHR is to report information for public consumption as quickly as possible. During election day the observers send their forms to ODIHR headquarters in the country's capitol at mid-morning, shortly after noon, and just before the polls close; the remaining forms are dropped off when the observers return from the vote count to their regional lodging sites throughout the country. This way, by the afternoon of election day OSCE/ODHIR knows how the election is going, whether there are serious problems, and if so, what they are and where they are. Then, on the morning after the election, OSCE issues its judgment on whether the election was conducted according to international standards or was marred by irregularities.

But OSCE is not a law enforcement organization, and its approach would not be appropriate to the job of the Justice Department. Some of the irregularities that the federal observers can witness are not dissimilar from the kind of procedural irregularities that are common to elections held in emerging democracies. The extra identification steps required of Arab Americans in Hamtramck, Michigan, and the harassment they encountered, described below, are an example. But the similarity of some situations to those addressed by international observer groups such as the OSCE does not argue for redesigning the federal observer program under the Voting Rights Act to resemble those organizations' efforts.

In fact, the federal observer program is an effective law enforcement program as it is now constituted. If observers are desired to watch polling place activities for other purposes, those functions should be performed by other observers serving other functions. "Domestic" observers in other countries are allowed into the polling places to get information for their candidates, or political parties, or organizations, and routinely publicize the activities they witness. Those countries' elections, however, are conducted centrally, by a central (in the U.S. it would be a federal) election commission, and the observers' activities are under that central control. The laws of those countries specifically allow domestic as well as international observers into the polling places. The observers are granted permission to be in the polls and are issued identification tags for that purpose by the central or district election commissions, which can withdraw that permission at any time.

This kind of observation is not a matter within the purview of existing federal legislation in this country, and to have federal legislation allowing these kinds of observers in polling places a record would have to be established by the United States Congress justifying their presence in connection with federal elections. On the other hand, in the United States access to the polling places is controlled by state law, and some states allow such observers into the polling places now. States routinely also allow the press into the polls to witness the activities there. Finally, redacted versions of the federal observers' report forms may be obtained under the Freedom of Information Act (FOIA) subject to the FOIA rules and the Privacy Act.

The following analysis provides the specific support for my conclusion that the federal observer provision of the Voting Rights Act should be continued because it is clearly needed to provide the Justice Department with evidence of violations of the Voting Rights Act's prohibitions against discrimination in the polling places against racial and language minority group members. This analysis is taken from an article my wife and I wrote for the Temple Political and Civil Rights Law Review, Spring 2002 edition, Vol. 2, Number 11.

The special provisions of the Voting Rights Act were compelled by resistance to African Americans' voting rights.

Congress had found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims.

South Carolina v. Katzenbach, supra at 328.

The Voting Rights Act (the “Act”) cut through the protective barrier of federalism with two important sections. Section 5 of the Act, 42 U.S.C. § 1973c (the “preclearance” provision), required federal review of any new voting procedures that states and counties might adopt. This prohibited the adoption of new discriminatory practices when a jurisdiction’s present practices were found to be unlawful. And Section 4 of the Act, 42 U.S.C. § 1973b, instantly led to the enfranchisement of thousands of people by suspending the use of literacy tests and similar discriminatorily applied barriers to the registration of African Americans in the Deep South.¹ Some states, such as Virginia, immediately stopped using literacy tests. In other Southern states, federal examiners were appointed under Section 6 of the Act, 42 U.S.C. § 1973d, assigned to counties to conduct fair voter registration under Section 7 of the Act, 42 U.S.C. § 1973e, when white county officials refused to stop their racially discriminatory voter registration practices.² This was no small task, as over 170,000 people were registered between 1965 and 1972 through the efforts of the federal examiners, mostly in Alabama, Georgia, Louisiana, and Mississippi. *Semiannual Report of Cumulative Totals on Voting Rights Examining as of*

¹ These “tests or devices” were suspended in states and counties determined by a formula in Section 4 of the Voting Rights Act, 42 U.S.C. § 1973b, based on the use of literacy tests and other pre-application devices (such as having current voters vouch for your good moral character), and low voter turnout. Later, this provision was made permanent and nationwide. 42 U.S.C. § 1973aa. Originally, states and counties covered under the formula in Section 4 of the Act could terminate their special coverage (“bail out”) after five years by showing in a lawsuit before a three-judge court in the federal district court for the District of Columbia, that no test or device had been used to deprive anyone of the right to vote during that period. Since the Act itself suspended those tests or devices for only 5 years, it was thought that it would be relatively simple for states and counties who complied with the suspension to bail out after the 5-year period. In 1970 the time period in Section 4 was extended to 10 years, in 1975 it was extended to 17 years. In 1982 the approach was changed, and the special coverage under Section 4 will expire 25 years after August 5, 1984, the effective date of the 1982 Amendments, 42 U.S.C. § 1973b(a)(8). In 1982 the bail-out provisions were amended substantially to allow individual counties within a fully covered state to bail out, and to set out a number of specific qualifications that a jurisdiction needs to meet in order to bail out. 42 U.S.C. § 1973b(a)(1)-(3).

² The examiners are commonly referred to as federal registrars. These were people appointed by the head of the Civil Service Commission, now the Office of Personnel Management, to examine voter applicants as to their qualifications under state law. If the applicants satisfied the state requirements, their names were put on a list that was given to the county registrar, who then had to add them to the county voter registration rolls. In this way, some semblance of state authority over the voter registration process was preserved: registrants satisfied state requirements, and a state-authorized official put the voters’ names on the rolls. 42 U.S.C. § 1973e(b). To safeguard against discriminatory purges of those newly enfranchised voters, their names cannot be purged from the voter rolls without the approval of the Office of Personnel Management. 42 U.S.C. § 1973e(d).

December 31, 2000, Prepared by the Office of Workforce Information, Office of Merit Systems Oversight and Effectiveness, U.S. Office of Personnel Management. See Appendix A for the number of people, by state, registered by federal examiners.

Further, in order to allow the U.S. Attorney General to know whether discriminatory action was taken against the newly enfranchised voters in the polling places on election day, Section 8 of the Act allowed that, whenever an examiner has been appointed,

[T]he Director of Personnel Management may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election...for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election...for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated.

42 U.S.C. § 1973f.

Thus, the use of federal observers in polling places initially was directed at protecting the rights of new voters who had been registered by federal examiners. Even though federal voter registration was rare after 1972, the predicate under the Voting Rights Act for assigning federal observers has not changed: federal observers continued to be allowed only in counties that had been certified by the U.S. Attorney General for federal examiners. As a result, to allow the assignment of federal observers to a county, the county had to be certified by the U.S. Attorney General or a federal court (under Section 3(c) of the Act, 42 U.S.C. § 1973a(c)) for federal examiners.³ The assignment of federal observers continues to be a cornerstone of the enforcement of the Voting Rights Act. Over 23,000 federal observers have been assigned to monitor polling place procedures since 1966, 4,393 since 1990 alone.⁴ See Appendix B, Assignment of Federal Observers Under Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f, by Year and State.

³ Since the federal examiner and federal observer provisions of the Voting Rights Act focus on political subdivisions, which ordinarily are counties, a county must be certified for federal examiners even if the object is to assign federal observers to monitor polling places during a city or other election, such as a school board election, within the county. See 42 U.S.C. §§ 1973d, 1(c)(2).

⁴ There were 4,698 federal observers assigned to polling places in 5 states from 1966 through 1969; 7,034 federal observers were assigned to 9 states in the 1970s; 6,598 federal observers were assigned to 11 states in the 1980s, and 3,753 federal observers were assigned to 13 states in the 1990s. In 2000, 640 federal observers were assigned to 11 states. See, Appendix B.

Federal observers witnessed clear racial discrimination at the polls.

Federal observers were able to note and document a wide variety of discriminatory actions that were taken against African Americans in the polls. Some of these actions were insulting and direct, as are reflected in the United States' responses to interrogatories in *United States v. Conecuh County, Alabama*, Civil Action No. 83-1201-H (S.D. Ala., Jun 12, 1984).⁵ See Appendix C.

While providing assistance to a black voter, white poll official Albrest asked, "Do you want to vote for white or niggers?" The voter stated that he wanted to give everyone a fair chance. Albrest proceeded to point out the black candidates and, with respect to one white candidate, stated, "This is who the blacks are voting for." Poll official Albrest made further reference to black citizens as "niggers" in the presence of federal observers, including a statement that "niggers don't have principle enough to vote and they shouldn't be allowed. The government lets them do anything."

Plaintiff's Response to Interrogatories and Request for Production of Documents, p. 6.

White poll workers treated African American voters very differently from the respectful, helpful way in which they treated white voters. When questions arose about the voter registration data for a white person, such as a person's address or date of registration, or when a white person's name was not immediately found on the poll books, the voter was addressed as Mister or Misses, was treated with respect, and the matter was resolved on the spot. If the voter's name was not found, often he or she either was allowed to vote anyway, with his or her name added to the poll book, or the person was allowed to vote a provisional or challenged ballot, which would be counted later if the person were found to be properly registered. If, however, the voter was black, the voter was addressed by his or her first name and either was sent away from the polls without voting, or told to stand aside until the white people in line had voted. African American voters were not allowed to take sample ballots into the polls, and were made to vote without those aids (it was claimed by white officials that the sample ballots were campaign material which was prohibited inside the polls).

African American voters who were unable to read and write, due in large part to inferior segregated schools and the need to go to work in the fields at an early age, were refused their request to have someone help them mark their ballot, notwithstanding the Voting Rights Act's bar on literacy tests. In some instances, white poll workers would loudly announce the African American voter's inability to read or write, embarrassing the

⁵ The federal observers' reports are not public documents, so there are very few examples on the public record of the facts that the observers have witnessed. One such public document is the Plaintiff's Response to Interrogatories and Request for Production of Documents in *United States v. Conecuh County, Alabama*, supra. Some of the specific examples of the kind of discriminatory treatment that was afforded African American voters described in the text that follows are taken from the excerpts of the *Conecuh County* responses at Appendix C, while others are based on the author's first-hand knowledge.

voter in front of his or her neighbors. Some white poll workers went so far as to bring a magnifying glass to the polls, and give it to African American voters, challenging the voter to read using the magnifying glass in front of everyone present at the polling place. Illiterate white voters, on the other hand, were allowed assistance by a person of their choice without comment. White couples routinely were allowed to enter the voting booth together to mark their ballots.

In instances where African American voters were allowed an assistor in the booth, arbitrary rules were concocted that limited the number of voters an assistor could help, or made the assistor wait outside the polling place, requiring the voter to enter the polls alone and negotiate alone the sign-in procedures administered by unfriendly white poll workers, before being allowed to ask that the assistor be allowed to help.⁶ All too often, when the voter said he or she needed assistance the white poll worker would proceed to help the voter, and not give the voter a chance to ask for the assistor the voter wanted; the voter did not know if the poll worker cast the ballot as the voter desired, and had no confidence that the ballot was cast correctly.

Moreover, racial discrimination in the polls is not limited to African Americans, and is not limited to the South. On November 2, 1999, in the City of Hamtramck, Michigan, the qualifications of more than 40 voters were challenged on grounds that they were not citizens. They were challenged by members of a group known as Citizens for a Better Hamtramck (CCBH), organized to keep elections pure. As described in the Consent Order and Decree in *United States v. City of Hamtramck*, Civil Action No. 00-73541 (E.D. Mich, Aug 7, 2000),

6. ...Some voters were challenged before they signed their applications to vote. Other voters were challenged after they had signed their applications and their names had been announced. The challenged voters had dark skin and distinctly Arabic names, such as Mohamed, Ahmed, and Ali. The challengers did not appear to possess or consult any papers or lists to determine whom to challenge.

7. Once challenged, the city election inspectors required the challenged voters to swear that they were American citizens before permitting them to vote. Voters who were not challenged were not required to do so. The city election inspectors did not evaluate the propriety of merit of the challenges. Some dark-skinned voters produced their American passports to identify themselves to election officials. Nevertheless, these persons were challenged by CCBH, and the election inspectors required them to take a citizenship oath as a prerequisite to

⁶ After the Voting Rights Act enabled African Americans in the Deep South to register to vote, it became common for civil rights workers and local African American residents to drive the new voters to the polls and to give assistance to those who needed it. This was a natural outgrowth of the organizing required during the civil rights movement to achieve voter registration for black people. It provided transportation—many people did not have cars—and gave confidence and protection to these newly enfranchised voters at the polling places from which they had so recently been excluded by white poll workers and voters who did not want them there. This tradition of “hauling” voters to the polls and giving assistance to voters who need it continues today, especially in many rural areas.

voting. No white voters were challenged for citizenship. No white voters were required to take a citizenship oath prior to voting.

at p. 4.

The consent decree also states that city officials were apprised of the incidents, that they consulted with state election officials who were present in Hamtramck on election day, but neither the state nor the city election officials prevented the baseless challenges from continuing. It was claimed that other Arab-American citizens may have heard about the incidents and decided not to go to the polls to vote that day.

Federal observers witnessed clear discrimination against language minority group members at the polls.

Besides discriminatory treatment of citizens based on race, citizens who speak English poorly, or not at all, have faced obstacles to voter registration and voting. In 1975 Congress took note of discrimination against people who have only a limited ability to speak English. For them, printing or providing information only in English as effective as a literacy test in keeping them from registering to vote or casting an effective ballot. Such disenfranchisement was outlawed when the Voting Rights Act was amended and expanded in 1975. The terms of Section 4 of the Act, containing the formula for applying special coverage to counties, were changed to include among prohibited tests and devices,

[T]he practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance or other material or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority.

42 U.S.C. § 1973b(f)(3). Language minorities are defined in the Voting Rights Act as American Indian, Asian American, Alaskan Natives, and people of Spanish heritage. 42 U.S.C. § 1973l(c)(3). Political subdivisions as defined in the Act usually are counties. 42 U.S.C. § 1973l(c)(2).⁷

The 1975 amendments to the Act required that when the newly covered jurisdiction

...provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language...

⁷ The jurisdictions subject to the special provisions of the Voting Rights Act are listed in the Appendix to 28 U.S.C. Part 51.

42 U.S.C. § 1973b(f)(4)⁸

Counties in Arizona, New Mexico and Utah were certified for federal examiners, and federal observers were assigned to document the extent to which the English language was used in areas where many of the voters spoke Native American languages but understood English only marginally. Similarly, federal observers have been assigned to polling places in Spanish language areas of Arizona, Texas, New Jersey and New York City, and Chinese language areas of New York City, and San Francisco and Oakland, California.⁹ In all these areas minority language citizens were allowed to register to vote, but the use of the English language instead of the voters' first language prevented them from understanding the voting instructions and the ballot. Polling place workers either were not able to speak the language of the voters, or if they could, were not trained to translate the documents and procedures into the language of the voters. By the 1990s federal observers were assigned to monitor discrimination against language minority group members in numbers equal to the federal observers assigned to monitor non-language racial discrimination.¹⁰

The need for the language minority provisions of the Voting Right Act continues to be demonstrated in areas of the country where English is not persons' primary language. Normally one would assume that polling place workers would be chosen from the population where the polling place is located, and that they would speak another language in addition to English with the same frequency as the voters. In many instances, however, this did not happen. For example, in ethnically changing neighborhoods in New York City, the choices of the political party apparatus resulted in the repeated appointment of English-speaking poll workers where a large portion of the new voters in a precinct were Spanish-speaking Puerto Ricans. In Passaic, New Jersey, English-speaking poll workers were unable to find the names of Spanish-speaking voters

⁸ A parallel requirement was added in Section 203 of the Voting Rights Act in 1975 for counties determined by different formula. 42 U.S.C. § 1973aa-1a. Section 203 of the Act does not include the other special provisions of Section 4, such as the preclearance, federal examiner and federal observer provisions. Lawsuits under Section 203 must be brought before a three-judge court. As a result of amendments since 1975, coverage under Section 203 now applies to counties that have more than 5 percent of voting age citizens who are members of a single language minority and are limited-English proficient; have more than 10,000 voting age citizens who are members of a single language minority and are limited-English proficient; or have a part of an Indian reservation, and more than 5 percent of the American Indian or Alaska Native voting age citizens are members of a single language minority and are limited-English proficient; and the illiteracy rate of the language minority group citizens is higher than the national illiteracy rate. 42 U.S.C. § 1973aa-1(a)(2). The counties covered under the language minority provisions of Sections 4 and 203 are listed in the Appendix to 28 U.S.C. Part 55.

⁹ Counties in Arizona, New York and Texas were certified by the U.S. Attorney General. Counties in California, New Mexico and Utah were certified by federal district courts under Section 3(c) of the Act, 42 U.S.C. § 1973a(c). Section 3(c) provides for certification in a lawsuit brought "under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment...(1) as part of any interlocutory order...or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred..."

¹⁰ From 1990 through 2000, there were 2,449 federal observers assigned to elections in the states of the Deep South, very few of which involved discrimination against language minority group members, and there were 2,215 federal observers assigned to monitor elections in other areas of the country, most of which involved discrimination against language minority group members. See Appendix B.

in the polls books because the poll workers did not know that the voters' family name traditionally was the second of three names they used. Some voters were denied the ballot because they identified their street name according to common Spanish usage rather than the formal English name.¹¹ In Texas and Southern Arizona polling places Hispanic voters were admonished not to use Spanish when talking in the polling places and when giving assistance to voters who needed help when voting. Moreover, the citizenship of Hispanic voters was questioned at the polls, with voters being required to somehow provide on-the-spot evidence of their citizenship before being given a ballot; such evidence was not required of Anglo voters.¹²

Evidence of other kinds of discriminatory behavior of polling place workers and others toward Spanish language voters inside the polls is provided in the reports of the Independent Elections Monitor appointed in September 2000 by the court in a consent decree in *United States v. Passaic City, New Jersey, and Passaic County, New Jersey*, Civil Action No. 99-2544 (NHP) (D.N.J., Sep. 5, 2000)(three-judge court).

At P.S. 6, observers called to report that the challenger was making racist remarks about Hispanics. At the Ukrainian school, challengers became very aggressive and were yelling at voters, stating that they did not live in the country and should not vote. Ironically, many of these challenged voters were off-duty Passaic City police officers. Angel Casabona, Jr. was one such challenged police officer who avoided confrontation and properly came to Passaic City Hall to have his voting status clarified. Escorted by the City Clerk and investigators from the prosecutor's office, Mr. Casabona reentered the polling site and was permitted to exercise his vote. The brazen challenger was reprimanded and board workers were reminded that challengers should not be interacting with voters.

Walter F. Timpone, Office of the Election Monitor, Fifth Report, June 15, 2001, pgs. 3-4.

The most disturbing incident of the [June 26, 2001 municipal primary election] occurred at the polling place at St. Mary's School in Passaic. Someone allegedly stole the flag from outside the polling place. The police were called. An officer responded and caught the purported perpetrator. The Officer entered the polling place and asked who had called the police. No one responded. The officer barked comments in substance to the poll workers as follows, "Can't you read? What country do you come from?" When a municipal worker of Indian origin came to see what the problem was, the officer then asked, "And what country do you come from?" When a Latino federal observer tried to explain the

¹¹ Mail addressed to streets using the Spanish nickname was delivered because the postal personnel were familiar with the local Spanish language usages, as the poll workers were not.

¹² Anglo candidates compiled lists of Hispanic voters' names for their poll watchers to challenge at the polls on the ground that the voters were not citizens. United States citizenship is required by every state as a qualification to register to vote in state and federal elections. But in order to avoid discriminatory treatment of voters at the polls and disrupting the polling places with election-day challenges, persons who, before an election, have evidence that a registered voter is not a U.S. citizen should be required to present that information to the voter registrar, and to desist from interposing challenges at the polls to voters whose qualifications have been upheld by the register.

dictates of the consent decree, the officer asked for credentials. When the observer showed his credentials, the officer found them inadequate because they lacked a picture and detained the observer. The Officer told the observer, "I could arrest you for this." Upon being alerted to the controversy, I asked investigators from the Passaic County Prosecutors Office and Deputy Chief of the Passaic County Police Department to intercede. When a Sergeant from the Passaic Police department responded at the scene and learned what had happened, he apologized to the federal observer and told him he thought some sensitivity training might be in order for the officer. Notably, this discriminatory behavior took place in a city where the Latino population is at 62%. Intolerance in the city is still existent and hiding under color of official right.

Walter F. Timpone, Office of the Election Monitor, Sixth Report, July 27, 2001, pp. 6-7.

The use of English rather than Chinese in polling places in Chinese neighborhoods of San Francisco and Oakland (Alameda County), California, and New York City left voters confused about procedures, and ignorant of ballot propositions and contested offices. As was noted in the Settlement Agreement and Order in *United States v. Alameda County, California*, C95 1266 (N.D. Cal, Jan 22, 1996)(three-judge court),

According to the 1990 Census, the population of Alameda County includes 68,184 Chinese Americans and 30,120 Chinese American citizens of voting age. The 1990 Census reports that 11,394 persons, or 37.83 percent of the Chinese citizen voting age population in Alameda County, and 1.3 percent of the total citizen voting age population in Alameda County do not speak English well enough to participate effectively in English language elections. Thus, over 11,000 Chinese American citizens in Alameda County cannot function effectively in the electoral process except in the Chinese language.

at p. 4.

Problems were compounded in Native American areas of Arizona, New Mexico and Utah. The problems faced by Native Americans in these areas are illustrated in Cibola County, New Mexico, which contains the Ramah Chapter of the Navajo Reservation and the Acoma and Laguna Pueblos. The Stipulation and Order in *United States v. Cibola County, New Mexico*, No. Civ 93 1134 LH/LFG, (D.N.M., Apr 21, 1994)(three-judge court), states that,

5. According to the 1990 Census, 57.8 percent of the Navajo voting age population and 18.1 percent of the Pueblo voting age population in Cibola County do not speak English well enough to participate effectively in English language elections. Thus, a significant proportion of the Native American population of Cibola County, and a significant majority of Navajos, cannot function in the electoral process except in the Navajo or Keresan languages.

6. The Navajo and Keres populations of Cibola County live in circumstances of significant isolation from the non-Native American population of the county. Cibola County is unusually large in physical terms, and covers a geographic area roughly the size of the State of Connecticut. Over four-fifths of the non-Native American population lives clustered within or near the adjacent incorporated communities of Grants and Milan, close to the county courthouse. The Acoma and Laguna population centers are between 25 and 50 miles away from Grants, the county seat, while the Ramah Chapter House is approximately 50 miles from Grants. The isolation of the Native American population of Cibola County burdens their access to the franchise.

8. Native American citizens living within Cibola County, suffer from a history of discrimination touching their right to register, to vote, and otherwise to participate in the political process. Until 1948, Native American citizens of New Mexico were not permitted to vote in state and local elections. *Trujillo v. Garley*, C.A. No. 1350 (D.N.M., August 11, 1948). In 1984, the court in *Sanchez v. King*, C.A. No. 82-0067-M (D.N.M. 1984) held that the New Mexico state legislative redistricting plan discriminated against Native Americans.

9. The level of political participation by Native American citizens of Cibola County is depressed. Voter registration rates in the predominantly Native American precincts have been less than half the rate in non-Native American precincts, and Native Americans are affected disproportionately by voter purge procedures. Although Native Americans comprise over 38 percent of the county population, fewer than eight percent of all absentee ballots have been from the predominantly Native American precincts. There is a need for election information in the Navajo and Keresan languages, and a need for publicity concerning all phases of the election process for voters in Ramah, Acoma and Laguna. The rate of participation by Native Americans on such issues is less than one third of the participation rate among non-Native Americans. There is a need for polling places staffed with trained translators conveniently situated for the Native American population.

at pages 5-7.

The remedy for this unlawful disparity is complicated by the facts that (1) the Navajo and Pueblo languages are oral, not written, and (2) there are no equivalent terms in the Navajo and Pueblo languages for many words and phrases in the election process.

Native American polling place workers in reservation precincts faced a more difficult task than white poll workers in getting to the training session for poll workers that were held many miles away in county seats where most white people lived. At the training sessions Native American poll workers were given little or no instruction about how to translate ballots and propositions, and many of their attempts to do so on election day resulted in the most rudimentary references. For example, poll workers assisting voters at the polls would refer to the office of secretary of state as someone who works in

the state capitol, and bond levies for education were said simply to be increases in taxes. Many times the Native American poll workers found it so difficult to figure out how to explain items on the ballot they just instructed the voters to skip the offices or propositions. Moreover, Native American voters who had been purged from the voter rolls because they failed to respond to written notices they either did not receive¹³ or did not understand, were turned away from the polls with no explanation of why they were not able to vote, and were given no opportunity to re-register there.¹⁴

Pre-election investigation can pinpoint where federal observers should be assigned.

The task of assuring compliance by polling place workers with appropriate polling place procedures requires (1) knowledge of what is happening in the polling places, and (2) the authority to correct actions that are in violation of the prescribed procedures. For over 35 years DOJ has been determining, before each election, what will happen in specific polling places in particular counties in states far from Washington, D.C. Based on this information DOJ determined at which polling places discriminatory activity would take place, and the exact number of federal observers needed at each particular polling place, from among the hundreds of counties in the 16 states that are fully or partially covered under Section 4 of the Voting Rights Act,¹⁵ and the 10 additional jurisdictions in other states that have been and remain certified by courts under Section 3 of the Act.¹⁶

This DOJ effort, known as a pre-election survey, is conducted by the Voting Section of DOJ's Civil Rights Division. Pre-election surveys began right after the Voting Rights Act was enacted, as a tool for determining where and how many federal observers would need to be assigned under Section 8 of the Voting Rights Act. Through the years

¹³ Residences on the Navajo reservation often are miles apart, with no paved roads, and many homes have no telephones. It is not unusual for reservation residents to pick up their mail periodically at a store or other place far from their homes.

¹⁴ Voters were confused because they voted in tribal elections without problem, and were not told, for example, that under state law they had been purged from the county voter rolls because they did not vote with some particular frequency and in particular elections, such as every two or four years in general elections. To add to the confusion, in many areas the tribal elections and the state elections were held on different dates but at the same locations. Prior to the National Voter Registration Act, 42 U.S.C. § 1973gg et seq., voter registration in many counties in Indian country was conducted in the county seat, far from reservation housing, until, in some instances, litigation required that deputy registrars be made available at reservation sites, and that voter purge procedures be modified to allow fair notice to Native American voters. *United States v. State of Arizona*, CIV 88-1989 PHX EHC (D. Ariz., May 22, 1989), pgs. 6-11; First Amended Consent Decree, Jan. 3, 1994, pgs. 5-10.

¹⁵ Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina and Texas are fully covered under the Voting Rights Act's special provisions by the formula in Section 4 of the Act, 42 U.S.C. § 1973b. One or more counties are specially covered under Section 4 in California, Florida, Michigan, New Hampshire, New York, North Carolina, South Dakota and Virginia. All jurisdictions covered under Section 4 of the Act are listed in the Appendix to 28 CFR Part 55.

¹⁶ Certification under Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973b(a), is for a particular term as defined by the court. Certification by the U.S. Attorney General under Section 6 of the Voting Rights Act, 42 U.S.C. § 1973f, is for an unlimited time. Jurisdictions certified under Section 6 can seek to have their certification terminated under Section 13 of the Voting Rights Act, 42 U.S.C. § 1973k. Appendix D is a list of the jurisdictions that have been certified for examiners by court order under Section 3(a) of the Act.

the pre-election surveys have remained relatively unchanged for determining where racially discriminatory actions (as contrasted with language-based difficulties) would occur in the polling places of the Deep South. This process is instructive on a broad level because it can be used, with variations, by states throughout the country to determine, prior to election day, where problems will occur on election day in polling places across the state.

The DOJ focus during the pre-election surveys is to find circumstances that are likely to lead to actions that will disadvantage voters in the polls on election day. To allow black voters to vote without interference in the South, the Voting Section focuses on counties where black candidates are facing white candidates. Those are the circumstances where experience has shown that polling place workers are more apt to take actions that deprive African American of their right to vote. Moreover, the inclination of polling place workers to take discriminatory action against African American voters is more likely when the black candidates have a real chance of beating white opponents. (For concerns about other kinds of problems at the polls, the pre-election survey would focus on the facts and antipathies relating to those problems.)

The surveys consist of two rounds of telephone calls and a field investigation. The first round of phone calls begins about six weeks before the election, which is a time when candidate qualifying has been completed and campaigning has been in progress. The Voting Section contacts the election director in each county where the minority population is about 20% or more, since a relatively small but concentrated portion of a county's population can be a significant proportion of a single election district in a county. The Voting Section determines a number of facts from each county election official they contact, including the name and race of the candidates, the office each is contesting, which candidates are incumbents, the county's procedures for appointing polling place workers, and the county's procedures for responding to problems that arise on election day. The second round of telephone calls is made to at least two African American people in each county who are familiar with the way elections have been conducted in the county during recent elections, who know who the candidates are and how the candidates have been conducting their campaigns, and who are knowledgeable about relationships between the races in the county and whether there have been any recent racial incidents in the county.

Voting Section attorneys then travel to the counties where the facts from the two rounds of telephone calls indicate that the assignment of federal observers is needed because poll workers will make it difficult for black voters to cast their ballots for the candidates of their choice. The attorneys interview the county election officials, the county sheriff (or chief of police, if a city election is in issue), African American county residents, including people associated with community and civil rights organizations, and candidates. The attorneys relay their information and their recommendation as to whether federal observers should be assigned for the election, and, if so, number and placement of federal observers that will be needed on election day, to a Voting Section

supervisor who coordinates the survey.¹⁷ The polling places that are selected for the assignment of observers are (1) those at which the facts show that African American voters are likely to be victimized on election day, where (2) the county has no effective way to either know what is happening in the polls, or for responding to problems that occur at the polls, or both.

During the pre-election surveys the Voting Section supervising attorney talks frequently with the Voting Rights Coordinator at the Office of Personnel Management (OPM) who recruits and supervises the people who serve as observers.¹⁸ Thus, OPM is aware of the identity of the counties that are the subject of field investigations, and of the recommendations of the attorneys for the assignment, numbers and poll location of federal observers. Because of the ongoing coordination between the Voting Section and OPM, the federal observers are chosen and are ready to depart for their assigned location the moment a final decision is made by the Assistant Attorney General for Civil Rights as to the numbers and placement of the observers.¹⁹

Information from federal observers is obtained quickly and effectively on election day.

The pre-election process not only gives DOJ information it needs to determine where and how many federal observers will be needed on election day, it puts DOJ lawyers in contact with county election officials before the election, and the DOJ lawyers inform the county officials of the problems that DOJ has found out may occur in the county's polls on election day. This contact continues during the election, as the DOJ lawyers provide the county election officials with information the lawyers get from the observers.

¹⁷ The Voting Section is headed by a chief and four deputy chiefs. There also are special counsels who are senior attorneys assigned to perform particular duties. The pre-election work for a particular jurisdiction is overseen by a deputy chief if the jurisdiction is a defendant in recent litigation. Otherwise, the pre-election supervision is handled by the special litigation counsel for elections.

¹⁸ Federal observers are assigned and supervised by the Office of Personnel Management. *See* 42 U.S.C. § 1973f. OPM centralized the observer program in the OPM office in Atlanta, Georgia, over the past several years. Beginning in 2002 the program will be centralized in the OPM office in Denver, Colorado.

There is no standing group of people who are federal observers. Rather, the people chosen to serve as federal observers at a particular election are volunteers, usually from among the OPM nationwide staff except when special abilities are required, such as Native American language ability. General training sessions are held for observers and observer supervisors at selected sites during the year. Often people will volunteer to serve as observers in election after election, but they are not always available because of the demands of their regular work assignments and prior obligations. Because of the need to recruit observers for each election, and the logistical requirements of transportation (airplane tickets, rental car) and lodging, the OPM coordinator and the Voting Section supervising attorney are in contact throughout the year to discuss observer needs in upcoming elections.

¹⁹ If a county for which federal observers is recommended has not been certified yet for federal examiners, a separate recommendation for certification of the county is made to the U.S. Attorney General, and a certification form is prepared for the U.S. Attorney General's signature. Also, because certifications are effective upon publication in the Federal Register, 42 U.S.C. § 1973b(b), arrangements are made for publication as soon as possible after the U.S. Attorney General signs the certification. Similar arrangements are made by OPM which must publish in the Federal Register a location for an examiner's office. 42 U.S.C. § 1973e(a).

The observers are briefed by DOJ attorneys and the observer captain on the day before the election. The observers get to their assigned polling place one-half hour before the poll opens, and usually will remain until the last person leaves the poll. They have pre-printed forms on which to record the activity in the polls. Observers usually also attend the ballot count and record the number of votes received by each candidate.

During election day an observer supervisor makes repeated visits to the polling places where federal observers are stationed, and remains in constant telephone contact with the DOJ attorney who is in the county. This gives the DOJ attorney in the county a constant flow of information throughout the day about activities that transpire inside the polls.²⁰ When the federal observers inform the DOJ attorney of actions of polling place officials that the attorney concludes are interfering with the voting rights of African Americans, the DOJ attorney gives the facts to the local official in charge of the election, which allows him or her to stop the discriminatory activity. Local officials also can use this information after the election to take steps to prevent the incidents from happening again.

Similar steps are taken on election day when federal observers are used to determine compliance with the language minority provisions of the Voting Rights Act, but normally the pre-election preparation is different. The inability or lack of desire of poll workers to provide information to non-English speaking voters usually does not depend on the identity of the candidates or the issues involved in a particular election. Thus, the information obtained in one election will allow a determination of whether federal observers will be needed in the next election.²¹

The reports of these federal observers have their primary emphasis on the language aspects of polling place procedures and the actions of polling place workers. (The federal observers assigned to a particular polling place speak the minority language that is used by the voters at that polling place.) It usually is not important that the observers arrive at the opening of the polls, nor that they stay all day, since the goal is to have the observers attend the polls for a sufficient length of time to witness a number of minority language voters go through the voting process. This will give the observers sufficient facts to allow the DOJ attorneys to analyze the county's compliance with the law.

We should emphasize that the federal observers do not interfere with the election process. Their limited function, to pass along information to their OPM supervisors and

²⁰ In addition, the DOJ attorney in each county calls the supervising attorney often during the day: when the polls open, and every hour after that until it is clear that correct procedures are being followed at the polls in that county, unless continuing problems and their resolution make it necessary to continue frequent contact. This coordination between the supervising attorney and the attorney in the field begins on the day before the election, and does not end until the attorney leaves the county to return to Washington, D.C., on the day after the election or later.

²¹ Initial facts indicating possible violations of the Voting Rights Act most often come to DOJ through complaints by telephone, by mail, or in conversation with DOJ attorneys, paralegals and analysts in the performance of their routine duties.

the DOJ attorneys, is in accord with the dictates of Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f. The observers must not give instructions to poll workers, must not give help to voters, and must not share their observations, judgments or opinions with individuals in the polls. They are eyes and ears. They are paid witnesses.²²

The federal observers' reports allow Justice Department attorneys to require counties to comply with their states' rules.

In its enforcement of all federal civil rights laws the Department of Justice (DOJ) attempts to obtain voluntary compliance from prospective defendants. This has been especially true of the enforcement of the Voting Rights Act where the prospective defendants are officials of state and local governments.

From the beginning of DOJ's enforcement of the Voting Rights Act DOJ lawyers personally conducted investigations in each county before examiners or observers were assigned, regularly checked on the progress of examiners while voter registration was conducted, and on election day a DOJ attorney was and continues to be present in each county to which federal observers are assigned to obtain information from the observers during election day, and debrief the observers immediately after the election. During their presence in the counties the DOJ lawyers have continuing contact with county officials, and give them the information the lawyers gain as part of their pre-election investigation in the county, and from the federal observers. Those local officials, faced with the immediate and continuing presence of DOJ lawyers, usually instruct the head worker at the polling place to follow the appropriate procedures.

The federal observers inside the polling place witness the cessation of the discriminatory action, or if the discriminatory action continues, the DOJ lawyer again brings the information from the observers to the attention of the county election official to get further corrective action. Thus, federal observers function both to gather evidence of discriminatory activities in the polling place for future legal action, and for the elimination of discriminatory actions on the spot. At times, the mere presence of federal observers at the polls serves to inhibit the tendency of many polling place workers to take discriminatory action against African American voters.

Court-ordered remedies require counties to do their job in the South.

Some compulsive action is needed when county election administrators do not address outstanding problems in the polls, and do not follow proper election day procedures. A primary reason for the mistreatment of African American voters was and

²² It is of utmost importance that observers stick to their role at the polls, because they are able to be in the polling places only by the authority of Section 8 of the Voting Rights Act. 42 U.S.C. § 1973f. States have laws about who can enter the polls. Usually those individuals include poll workers, voters, voters' assistants, peace officers when called, and candidates' or political parties' poll watchers. Others will be inside the polls in violation of law unless specifically authorized to be there by the appropriate local election official. Moreover, under Section 8 of the Voting Rights Act the federal observers are able to be in the polls only to perform the tasks noted above.

continues to be the failure of local election officials to appoint African Americans as polling place workers. The evidence of mistreatment that this discriminatory policy had on African American voters has provided a firm basis for court orders that required the defendants to take specific steps to recruit and hire African Americans to work in the polls. One good example of this result is the consent decree in *United States v. Conecuh County, Alabama*, supra, which required the defendant political party executive committees (responsible for nominating people to serve as poll workers) to “engage in affirmative recruitment efforts aimed at ensuring that the pool of persons from which nominations are made fully reflects the availability of all qualified persons in Conecuh County who are interested in serving as election officials, without regard to their race or color.” at pp. 3-4.

Those recruitment efforts were required to include encouraging candidates to “seek out and propose for nomination black citizens,” and “sending notices to local organizations comprised predominantly of black citizens...to advise them that the party intends to nominate persons to serve as election officials and encourage them to have interested persons notify the chairperson of the respective political party executive committee of their willingness to serve as election officials,” at p. 4.

A 1993 consent order in *United States v. Johnson County, Georgia*, CV393-45 (S.D. Ga, Sept 14, 1993) stated that,

1. According to the 1990 Census, the total population in Johnson County is 34 percent black and the total voting age population is 29.2 percent black.

* * * * *

7. Of the one hundred thirty one individuals who were employed by Johnson County to serve as poll officials between 1988 and August 1992, eighteen (14%) were black. There were no black poll workers during this period at seven of the twelve polling places.

8. Only eight (12%) of the Sixty-six poll officials employed by Johnson County for the July 21, 1992 primary election were black. There were no black poll workers at eight of the twelve polling places.

9. Of the one hundred and six poll officials employed by Johnson County for the November 3, 1992 general election, only sixteen (15%) were black. There were no black poll workers at six of the twelve polling places.

10. No black person has ever served as a managing poll officer or an assistant managing poll officer at any of the county’s polling places.

At pages 2-3.

Included in the *Johnson County* consent decree among the steps the defendant county commission and supervisor of election must take to have African Americans fairly represented among the polling place workers are, “sending written notices to local organizations comprised predominantly of black citizens ...to advise them that the county

intends to appoint black persons to serve as poll workers and poll managers;” and “contacting black candidates and members of the political parties...to ascertain the names, addresses and telephone numbers of black citizens who are qualified and available to serve as poll officers.” *Id.* at 6. In addition, the defendants must publicize in local newspapers, on radio, on television and on posters their policy of conducting elections free of racial discrimination. They also must train the poll workers on how to perform their duties in a racially nondiscriminatory manner, and, with specificity, on how to deal with voters who need assistance.

Even with the specific steps set out in the 15 page *Johnson County* consent decree, the reports of federal observers showed that African American citizens of the Johnson County were continuing to be excluded from among the ranks of those appointed to work at the polls because the supervisor of elections did not adhere to the terms of the decree. After further discussions between the county and DOJ, in lieu of DOJ pursuing contempt of court proceedings the county appointed a biracial committee formed of county residents to perform the preliminary poll worker recruitment and nomination functions previously performed by the election supervisor, leaving her with her statutory duty of formally appointing the poll workers. (This change in practice was reviewed and precleared under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c.) As a result, African Americans were fairly appointed among those who worked at the polls, and discrimination against African American voters at the polls abated in Johnson County, Georgia.

Both the *Conecuh County* and *Johnson County* cases show how information gathered by observers can serve as the evidentiary basis for litigation, how particular individuals at the county level can persist in discriminatory procedures in spite of state law and federal litigation, and how the identity and training of the people working inside the polling places is of primary importance in eliminating injustice from the polls. It should be remembered that in both instances the DOJ lawyers first shared their information with state and local election officials in an attempt to allow those officials to eliminate the discriminatory treatment of voters. These efforts provided the election officials with something they could obtain by themselves, but did not: information about what went wrong in their polls. The need for the resulting litigation demonstrated that those officials were not willing to stop the discriminatory conduct.

Court-ordered remedies require counties to do their jobs for language minorities.

Even after the Voting Rights Act was amended in 1975 to require that areas designated under a formula must provide information and ballots in languages other than English, inadequate training of polling place workers continued to disadvantage minority language voters. The reports of federal observers gave the attorneys from the Department of Justice the information they needed to prove to county officials that violations of the Voting Rights Act had occurred, and to obtain consent decrees that set out specific steps that the counties would take to effectively provide and translate election information to Native American citizens.

Most of the consent decrees to cure discriminatory actions in Indian country under the language minority provisions of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, were lengthy and set out in detail the procedures that election officials had to follow for voter education, voter registration, translation and balloting.²³ It is significant that the great majority of the provisions in the consent decrees focused on the counties' administrative responsibilities, including hiring additional county personnel, to try to give Native American voters equivalent access to information about an election and voting procedures as white people got as a matter of course, since all information was provided in English and in areas near the county seats.

Thus, the Stipulation and Order in *United States v. Cibola County, New Mexico*, No. Civ 93 1134 LH/LFG, (D.N.M., Apr. 21, 1994)(three-judge court), is 44 pages long, 33 pages of which is a Native American Election Information Program. This program provides that, "Cibola County shall employ at least three Native American Voting Rights Coordinators who will coordinate the Native American Election Information Program in Cibola County..." These coordinators have to be bilingual in either Navajo or Keres and English, they are to be hired only after the county consults with the tribes, they are to be trained in all aspects of the election process, they are to attend and make presentations at chapter and tribal council meetings, and perform numerous, specifically described functions that would provide election information to the Native American citizens of Cibola County.

It was and remains difficult, however, to compel obdurate county clerks and other county election administrators to perform the myriad election-connected functions in a way that meets the requirements of the court orders.²⁴ These cases argue persuasively for continuing the practice of seeking lengthy, detailed court orders that can be enforced through contempt proceedings.

²³ For example, the Consent Agreement is 36 pages long in *United States v. Socorro County, New Mexico*, Civil Action No. 93-1244-JP (D.N.M. Apr. 13, 1994) (three-judge court); in *United States v. State of New Mexico and Sandoval County, New Mexico*, Civil Action 88-1457-SC (D.N.M. Mar. 28, 1990) (three-judge court), is 12 pages long, and the accompanying Native American Election Information Program filed on April 30, 1990, is 24 pages long; the First Amended Settlement and Order in *United States v. San Juan County, Utah*, Civil Action No. C-83-1287 (D. Utah, Aug. 24, 1990) (three-judge court), is 21 pages; the First Amended Consent Decree and Order in *United States v. McKinley County, New Mexico*, Civil Action No. 86-0028-M (D.N.M., Jul. 20, 1990) (three-judge court), is 23 pages; and the Consent Decree in *United States v. State of Arizona*, CIV 88-1989 PHX EHC (D. Ariz, May 22, 1989), affecting Apache and Navajo Counties, is 24 pages, while the First Amended Consent Decree in that case (Jan. 3, 1994) is 28 pages long.

²⁴ A letter of understanding was developed between DOJ and San Juan County, New Mexico, which required the county to adopt a manual of procedures to comply with the language minority requirements of the Voting Rights Act. The manual would become final after review and concurrence by DOJ. Changes in the procedures would become effective upon the concurrence of DOJ. Letters of understanding have not been widely used by DOJ in its Voting Rights Act enforcement. The letters have the advantage of getting a fast remedy and avoiding the uncertainties of litigation. The main disadvantage of using a letter of understanding is the inability to seek contempt of court sanctions if the county does not follow the steps in the letter or the county's manual of procedures. If the actions that the county fails to take are significant, a legal action would need to be filed at that time, prolonging the time for obtaining a remedy.

An alternative approach was taken in a consent decree between DOJ and Bernalillo County, New Mexico, where the court order was accompanied by a manual of procedures to comply with the language minority requirements of the Voting Rights Act. *United States v. Bernalillo County, New Mexico*, CV-98-156 BB/LCS (D.N.M. Apr 27, 1998). The consent decree required that the county hire a native language coordinator who is bilingual in Navajo and English, and specifically noted that, "The primary responsibility of the [native language coordinator], a full-time employee of Bernalillo County, shall be to carry out the county's Navajo language election procedures, publicity and assistance, including assisting the county to carry out the procedures in the manual..." at p. 4. The consent decree also required the county to establish a travel, supply, and telephone call budget for the native language coordinator, and subjected the county to the preclearance provision in Section 3(c) of the Voting Rights Act, 42 U.S.C. § 1973a(c), which allows the county to make changes in the manual and for DOJ to review those changes to determine that they are nondiscriminatory before they can be implemented. This approach has the benefit of allowing the county to tailor its administrative procedures to its particular personnel and office situation, and of allowing practical changes to be made in the administrative procedures when necessary without having to request the three-judge court for an amendment to the court order.

Conclusion.

The federal observer provision of the Voting Rights Act continues to be extraordinarily effective in allowing the United States Department of Justice to enforce the Voting Rights Act. That provision should be extended.

The federal examiner provisions of the Voting Rights Act have accomplished their goal of allowing African American voter access to the voter rolls in areas where official resistance kept them from becoming registered voters. Those provisions have done their job and should be eliminated, especially insofar as they are prerequisites for the assignment of federal observers.

The federal observer provision of the Voting Rights Act performs an effective law enforcement function as it is written and applied. That provision should not be altered.

APPENDIX A

NUMBER OF PERSONS LISTED BY FEDERAL EXAMINERS
 UNDER SECTION 7 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973e
 1965 - 2000²⁵

<u>State</u>	<u>Total People Listed</u>	<u>Non-white People Listed</u>	<u>White People Listed</u>
Alabama ²⁶	66,539	61,239	5,300
Georgia ²⁷	3,557	3,541	16
Louisiana ²⁸	26,978	25,136	1,842
Mississippi ²⁹	70,448	67,685	2,763
South Carolina ³⁰	<u>4,654</u>	<u>4,638</u>	<u>16</u>
Total	172,176	162,239	9,937

²⁵ This information is extracted from the Semiannual Report of Cumulative Totals on Voting Rights Examining as of December 31, 2000, Prepared by the Office of Workforce Information, Office of Merit Systems Oversight and Effectiveness, U.S. Office of Personnel Management, Washington, D.C. 20415.

²⁶ People were listed in Autauga, Dallas, Elmore, Greene, Hale, Jefferson, Lowndes, Marengo, Montgomery, Perry, Sumter and Wilcox Counties.

²⁷ People were listed in Butts, Lee, Screven and Terrell Counties.

²⁸ People were listed in Bossier, Caddo, DeSoto, East Carroll, East Feliciana, Madison, Ouachita, Plaquemines and West Feliciana Parishes.

²⁹ People were listed in Amite, Benton, Bolivar, Carroll, Claiborne, Clay, Coahoma, DeSoto, Forrest, Franklin, Grenada, Hinds, Holmes, Humphreys, Issaquena, Jasper, Jefferson, Jefferson Davis, Jones, LeFlore, Madison, Marshall, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Quitman, Rankin, Sharkey, Simpson, Sunflower, Tallahatchie, Walthall, Warren, Wilkenson, and Winston Counties.

³⁰ People were listed in Clarendon and Dorchester Counties.

APPENDIX B

ASSIGNMENT OF FEDERAL OBSERVERS
 UNDER SECTION 8 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973f
 BY YEAR AND STATE, 1966 - 2000³¹

Year	AL	GA	LA	MS	NC	SC	AZ	CA	IL	MI	NJ	NM	NV	NY	TX	UT	WI	TOTAL
1966	823	22	397	470		158												1,870
1967			215	1,108														1,323
1968	252	138	125	507		152												1,174
1969	44		20	325														389
1970	403	6	16	126		19												570
1971			54	960														1,014
1972	140	44	60	146		105												495
1973																		0
1974	234	64	56	100														454
1975		11	116	1,252														1,379
1976	181	67	33	132											193			606
1977				89														89
1978	598	4		31		67		146					3		90		6	945
1979			130	1,212				140										1,482
1980	272	156	12	274											19			733
1981				72														72
1982	973	58	23	37														1,091
1983	187		3	1,288														1,478
1984	260	137		439	70	158									10			1,074
1985		19		152		7								107				285

³¹ This information is extracted from the summary of federal observer activity by calendar year, United States Department of Justice, Civil Rights Division, Voting Section. Southern states are listed first in this chart because federal observers were assigned only to Southern states for the first years shown.

Year	AL	GA	LA	MS	NC	SC	AZ	CA	IL	MI	NJ	NM	NV	NY	TX	UT	WI	
1986	149	15		155			40					65						424
1987	51			490								12			15			568
1988	127	65		124	39	45	150					89			31	23		693
1989	13			13								22		132				180
1990	61	72			36	67	145					72				25		478
1991		12		345		40	3					38		19				457
1992	53	151		23			181					87		17	5	13		530
1993	11	84		124		20	25					36		230				530
1994	95	18	11	35	45		109					147		55		18		533
1995			19	104								29						152
1996	39	76		121		72	108	39				89		36	24	17		621
1997	5			174				7				5		28				219
1998	29	6					109	20				129		12		19		324
1999		5	56	342							50	6						459
2000	44	42	8	24			105	23		68	128	140		23	16	19		640
TOTAL	5,044	1,272	1,354	10,794	190	2,046	975	375	0	68	178	966	3	659	403	134	6	23,331

APPENDIX C

EXCERPTS FROM PLAINTIFF'S RESPONSE TO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS, *United States v. Conecuh County, Alabama*, Civil Action No. 83-1201-H (S.D. Ala., Jun 12, 1984).

A white voter waiting in line to vote stated to white poll official John P. Bewley that she was unable to obtain a yellow sample ballot distributed by the Alabama Democratic Conference. The black voter standing next in line had such a ballot. Mr. Bewley stated, "You ain't [sic] of the right color." During the same day, Mr. Bewley stated to federal observer Riddle, "See, the niggers bring in these yellow marked ballots. The nigger preachers run the niggers down here, you know. They tell them how to vote. I don't think that's right."

P. 7.

Poll officials instructed white registered voters to confirm their registration status in the office of the Probate Judge. Black voters whose names were not on the list were in each instance simply told that they could not vote, and were given no instruction by poll officials. White voter Salter's name did not appear on the list, and Ms. Salter acknowledged that she resided in a rural precinct and not in box 11-1. Ms. Salter nevertheless was allowed to vote an unchallenged ballot directly on the machine.

Pp. 8-9.

Ms. Lewis, who required assistance because of a vision problem, signed the poll list and stated that she wished for her companion (unidentified) to provide assistance in voting for her. White poll official Windham stated, "Can't nobody go in there with you." After a pause, Mr. Windham stated to Ms. Lewis, "you can fill out an affidavit and then she can go in with you. Can't you [read]?" Mr. Windham's tone and manner were sufficiently abrasive that Ms. Lewis left the voting place. Some moments later she was observed to remark to a companion, who was trying to persuade her to make another attempt to vote, "I've done had trouble with them twice before and I'm not begging them any more. I'm not scared but I'm not begging anybody." Ms. Lewis returned accompanied by Mr. Richard Rabb, at that time the Chair of the Conecuh county Branch of the Alabama Democratic Conference. Ms. Lewis was allowed to vote, and the poll officials provided necessary assistance with the affidavit. Ms. Lewis remind very upset and remarked, "Why couldn't they have let me vote to begin with?"

Pp. 16-17.

Black voters at box 9-1 (Old Town) were told throughout the day of the October 12, 1982 special run-off election, that no more than two voters were allowed in

the polling place at one time. This restriction was imposed on 30-35 occasions. In no instance were white voters required to conform to this procedure, and the poll officials allowed a many as five white voters in the polling place at a time.

P. 21.

Ms. Stacey enforced the limitation on the amount of time a voter could spend in the booth in a random and discriminatory fashion. She enforced the limitation against black voters more frequently than against white voters. During the last hour of voting the requirement was applied exclusively against black persons. On at least two occasions she told black voters that their time had elapsed when, in fact, it had not.

P. 24

During the course of the day, poll officials addressed all black voters by their first names. Older white voters were addressed by the courtesy titles of Mr. and Ms.

P. 35

White poll official James Ellis initiated new procedures for assistance of black voters. Without notice to any person, Mr. Ellis required assistors accompanying voters into the polling place to remain 30 feet outside the polls until Mr. Ellis had finished interviewing the voter and summoned the assistor.

Pp. 36-37.

Poll officials who assisted black voters did not read the ballot to the voters or otherwise advice the voters of the contests and the candidates. They simply asked the voters, "Who do you want to vote for?"

* * * * *

Poll official Lois Stacey marked the ballot for a voter she was assisting in contests in which the voter did not express a preference.

* * * * *

Poll officials frequently served as assistors without asking voters receiving assistance who they wanted to assist them. On a number of occasions, poll officials serving as assistors did not read the complete ballot to the voters.

P.40

APPENDIX D

JURISDICTIONS CERTIFIED FOR FEDERAL EXAMINERS
UNDER SECTION 3(A) OF THE VOTING RIGHTS ACT AS OF 2000³²

<u>State</u>	<u>Jurisdiction</u>	<u>Term of certification</u>
Illinois	Town of Cicero	October 23, 2000 order, effective until December 31, 2005
Louisiana	St. Landry Parish	December 5, 1979 order, effective until further order of the court
Michigan	City of Hamtramck	August 7, 2000 order, effective until December 31, 2003
New Jersey	Passaic County	June 2, 1999 order, effective until December 31, 2003
New Mexico	Bernalillo County	April 27, 1998 order, effective until June 30, 2003
	Cibola County	April 21, 1994 order, effective until April 21, 2004 (originally certified by December 17, 1984 order)
	Sandoval County	September 9, 1994 order, effective until at least September 9, 2004 (originally certified by December 17, 1984 order)
	Socorro County	April 11, 1994 order, effective until April 11, 2004
Utah	San Juan County	December 31, 1998 order, effective until December 31, 2002 (originally certified by January 11, 1984 order)

³² Information obtained from *Jurisdictions Currently Eligible for Federal Observers as a Result of Orders Under Section 3(a) of the Voting Rights Act*, United States Department of Justice, Civil Rights Division, Voting Section, October 22, 2001.

POLITICAL OBSERVER PROTOCOL

Apache
County



If you have further questions,
please contact (800) 361-
4402 or (928) 337-7537. We
would be happy to assist you
in any way.

You may also access this
information by logging on to our
Website at: www.co.apache.az.us

Any person violating any provision of this notice is guilty of a class 2 misdemeanor.

Apache County Elections are conducted pursuant to the guidelines set forth under the Federal Voting Rights Act of 1965.

Protocol Guidelines:

Political Observer Protocol:
A.R.S. § 16-590

Statute allows for a political observer and an alternate to be appointed by the County Chairman of each party that has a candidate on the ballot for each polling place in the County.

The Apache County Elections Department in their efforts to carry out this law, feel the importance of establishing polling place protocol for Voters, Election Board Workers and Observers.

This will insure that questions or issues, no matter where or when they may occur during Election Day, are handled as quickly and efficiently as possible with minimal disruption to the voter and to the Election Board.

Political Appointment

If you have been appointed as a Political Observer you **must** have in hand your signed appointment when entering the Polling Place to show to the Inspector, Marshal or other member of the Election Board.

Questions or Concerns

If you have questions or concerns, please use the following procedure. If you are observing in a Reservation Precinct, your first point of contact needs to be the "Troubleshooter" for that precinct.

The Troubleshooter

This person has been appointed by the Elections Department to oversee all processes in that precinct.

The Troubleshooter has been instructed to contact our office with your concern(s).

Contact Us Direct

If for some reason, you are unable to contact that person, please call the Elections Department directly at 1(800)361-4402 or (928)337-7537 and ask for Margaret A. Coalter, Recorder or Penny L. Pew, Elections Director. We would ask that you not contact the Precinct Inspector.

Polling Place Etiquette

A number of polling places will be ver crowded, therefore we ask that you conduct your observing as quietly as possible. You may not enter a voting booth, unless it is your precinct and you are entering the voting booth to mark your ballot.

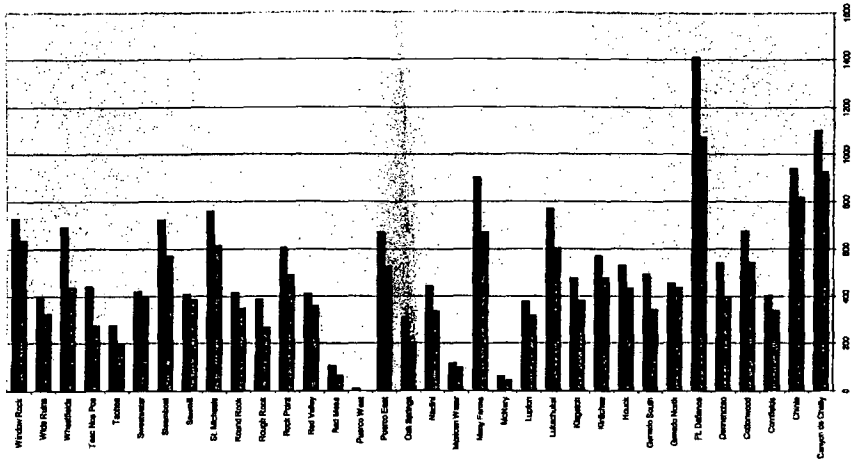
Please Don't Touch the Ballots

While you are allowed by law to observe many processes or areas where ballots are being handled, you are **not allowed to touch any ballot(s) or voting equipment.**

"no person shall be allowed to remain inside these limits while the polls are open, except for the purpose of voting; and except the election officials, [and] representatives who have been appointed by the county chairman, and the challengers allowed by law." [A.C.S. 16-513.01 to 1017.01, 16-1018.01]

LEAVEN
2004
2004

Apache County 2002/2004 Election Turnout




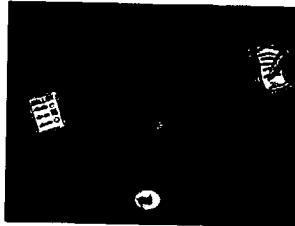
**Apache County Elections
Primary 2004**

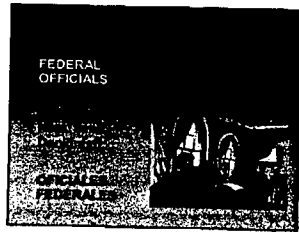
This presentation is provided as a courtesy from the Apache County Elections Office.

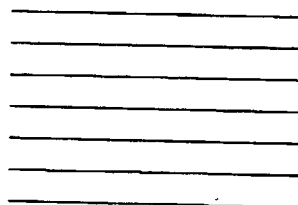
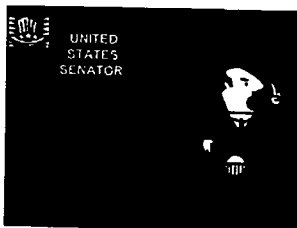
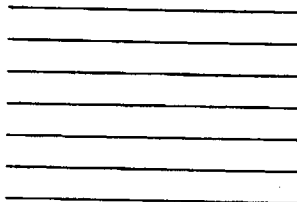
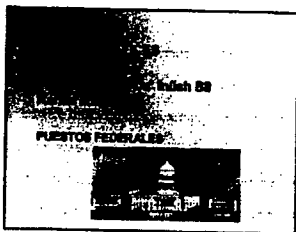
Penny L. Fowl, Director
Matthew Nohls, Outreach Coordinator
Virgil Adams, Outreach Technician

Wednesday, May 12, 2004
Chino Lake, Ariz. 86001

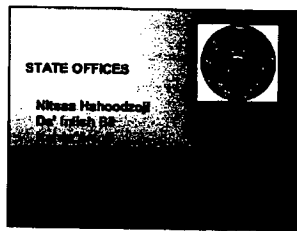






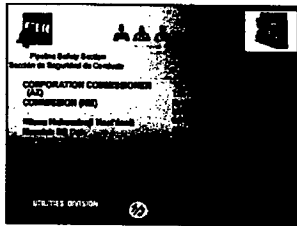




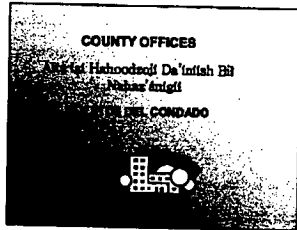




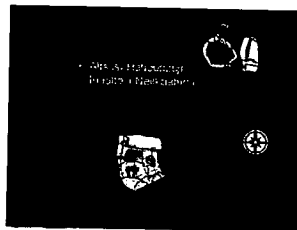


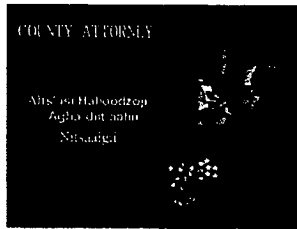


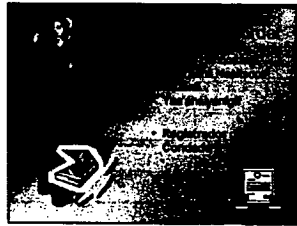


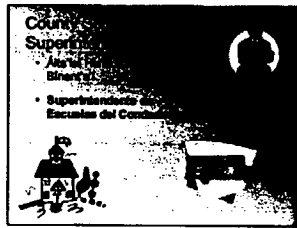


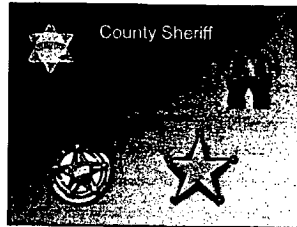




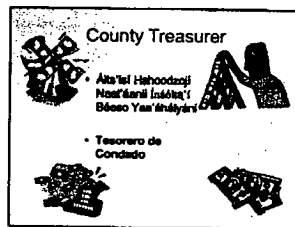








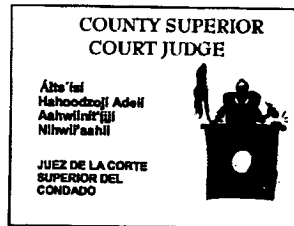
County Sheriff



County Treasurer

• Áts'ísi Hahoodzoji
Naat'áanii Iinááts'í
Bééso Yaa'áshiyáts'i

• Tesorero de
Condado



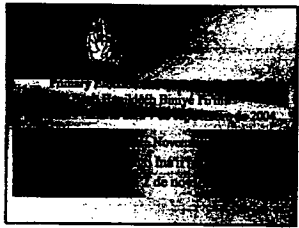
COUNTY SUPERIOR
COURT JUDGE

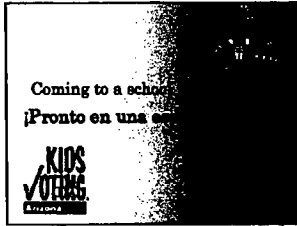
Áts'ísi
Hahoodzoji Adéii
Aahwéiníí'ííí
Níhwí'íáshíí

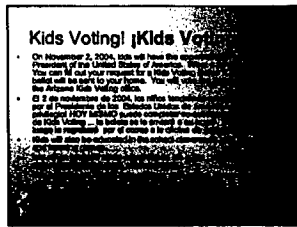
JUEZ DE LA CORTE
SUPERIOR DEL
CONDADO

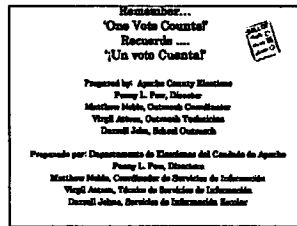












APACHE COUNTY GENERAL ELECTION
TRAINING MANUAL



PENNY L. PEW
ELECTIONS DIRECTOR

MATTHEW NOBLE
OUTREACH COORDINATOR

VIRGIL ATTSON
OUTREACH TECHNICIAN

ELECTION CERTIFICATE OF QUALIFICATION	
DATE	
I, PENNY L. PEW, Elections Director for Apache County, Arizona, do hereby certify that:	
_____ (Prime Board Worker's Name)	
was provided with a course of instruction in the applicable election laws pertaining to polling place procedures and in the operating procedures for the Accu-Vote System Scan Voting System and is therefore fully qualified to serve as an election board official.	
Penny L. Pew, Elections Director	

USE OF A RED PEN IS LIMITED TO:



> PLACING AN EV IN THE SIGNATURE
ROSTER FOR THOSE VOTERS THAT
REQUESTED AN EARLY BALLOT.

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INTRODUCTION

This training manual has been prepared, printed and delivered to you by the Apache County Elections Department. Through this training manual, your attendance in a training class and the help of your fellow Polling Place Workers on Election Day, we are sure that you will be successful in assisting us in carrying out our mission, a successful election. If at anytime you feel the need to ask questions, feel free to contact the Elections Office at 337-7537 or the Hotline (800) 361-4402 on Election Day.

DUTIES OF BOARD MEMBERS

You will find the various positions that you might be assigned to here in the next few paragraphs, be sure to familiarize yourself with all of them - You never know which job you will end up doing on Election Day.

INSPECTOR

1. Arranges with custodian or chapter official for access to polling place for the Monday meeting and Election Day. Be sure to ask for alternate phone numbers! At 5:30 in the morning on Election Day a phone number to the secretary's desk will not do anybody any good, make sure you get a pager/cell phone number or a home phone number.
2. Calls the rest of your Board to let them know when the set-up meeting will take place.
3. Conducts the Monday pre-election meeting.
4. Is responsible for instructing the Clerks, Marshals and Judges in their duties.
5. Fills any vacancy on the board which exists at the opening of the polls at 6:00 a.m., or which may occur during the day. In filling vacancies, the Inspector shall appoint a qualified elector.
6. Is Chairman of the election board and must be consulted regarding procedures.
7. Assigns duties to board members.
8. Along with 2 Judges, makes up the official voting election board and votes on challenges.
9. Oversees the Accu-Vote procedures. Never leave the Accu-Vote unattended!
10. Completes and signs the certification on the cover of the Signature Roster after the polls close.
11. Shall deliver the ballots and materials to the designated receiving site along with one of the Judges of the opposite party affiliation (if applicable).
12. Responsible for duties of the Marshal, if a Marshal is not appointed.
13. Oversees Provisional Ballot procedure.

14. May transmit results over a phone line to a Central Computer site.
15. Is responsible for completion and accountability of the Precinct Ballot Report.
16. Is responsible for official ballot security.
17. Shall make sure the Troubleshooter takes the Accu-Vote Memory Pack to Election Central in St. Johns.

JUDGE

1. Verify voter's name on Signature Roster.
2. Issues ballots and demonstrates marking the ballot.
3. Manages Accu-Vote.
4. Is a voting member of the Election Board.
5. May accompany the Inspector when delivering the ballots to the designated receiving site.
6. Is assigned to do Provisional Ballots.
7. Any other duty assigned by the Inspector.

CLERK

1. Enters names on the Poll List and checks for accuracy.
2. Any other duty assigned by the Inspector.

MARSHAL

1. Preserves order; acts as constable during the time the polls are open.
2. Performs as relief person for other board members.
3. Announces the opening of the polls, and, at 5 different times, the closing of the polls.
4. Post signs before the polls open.
5. Ensures all voters in line at 7:00 P.M. are allowed to vote.
6. May assist in the delivery of Accu-Vote to regional computer site after polls have closed.
7. Directs voters in line with "voted" Early Ballots to step out of the line and deposit their ballots into the side slot of the Black Ballot Box.
8. Any other duty assigned by the Inspector.

MONITOR

1. Help voters find their address in the alpha-listing to determine residence. Assist the voter in any questions he/she may have regarding elections. Keeps a log of questions.

TRANSLATOR

Verbally read the ballot in the Navajo language so that the voter understands the ballot information.

DO NOT TELL THEM HOW TO VOTE ON THE ISSUES

TROUBLESHOOTER IS THE LIAISON BETWEEN THE POLLING PLACE AND ELECTION CENTRAL. PLEASE UTILIZE THEIR HELP AS NEEDED.

PRE-ELECTION WEEK

TROUBLESHOOTERS:

There will be a Troubleshooter assigned to your Polling Place; he/she acts as a liaison between Election Central and the Polling Places on Election Day. The troubleshooter carries extra supplies and is in direct contact with the Elections Office, should any question arise.

THE INSPECTOR:

- You will receive a Board Worker Roster at the training class; this has the name and phone number of the contact person at your Polling Place. You are to call the contact person and arrange a Set-Up meeting to take place the Monday before the Election (unless otherwise specified).
- Once the set-up meeting has been arranged, you are to call all of your Board Workers to let them know when and where they need to be for the meeting. Do this as soon as possible. **DO NOT SET-UP THE POLLING PLACE PRIOR TO NOON ON MONDAY.**

MONDAY SET-UP MEETING



Many election boards will have *new members* who have never served before. For their benefit, the Inspector should:

- > Discuss, *in detail*, the duties of each board position
- > Assign each board member his/her duties
- > Discuss the voting procedures to be followed on Election Day
- > Review the Accu-Vote unit procedures

- *** Survey the areas to make certain all outlets are in working order.
- *** Double-check with the facility PRIOR to Election Day to make certain the phone line is accessible on Election Night for the transmitting of the results.
- *** Discuss with poll workers the importance of staying at the polling place from 5:30 a.m. until the polling place paperwork is completed and results are transmitted.

MONDAY SET-UP MEETING - ENDING PROCEDURE

- Before leaving the polling place, put the Official Ballots in a secure place, (locked)



BRING FOOD, BEVERAGES AND REQUIRED MEDICATIONS ON TUESDAY, ELECTION DAY.



DONT FORGET TO BRING THE KEYS BACK ON ELECTION DAY!!!





CHECKING SUPPLIES

- o Using the keys located in the side pocket of the Accu-Vote unit, unlock all compartments on the Black Ballot Box to make sure they are empty. (Key with black key guard)
- o Using the small silver key, unlock the supply box and use the Inspector Checklist to make sure all supplies are there. If any supplies are missing, please let the Election Director know at the training meeting. Lock the supply box back up.
- o Count all ballots. If they are sealed, they DO NOT have to be re-opened; they are in packages of 50.
- o **DO NOT CALL THE HOTLINE IF SUPPLY QUANTITIES DO NOT MATCH. INDICATE ON THE INSPECTOR'S CHECKLIST THE CORRECT QUANTITIES AND USE THOSE FIGURES TO CLOSE OUT AFTER THE ELECTION.**

SETTING UP THE ACCU-VOTE

- ◆ Make sure that the precinct name on the Accu-Vote is the correct precinct.
- ◆ Move the entire unit to the electrical outlet nearest the polling place exit.
- ◆ Unlock the door on the front of the Black Ballot Box. Slide the Accu-Vote unit in place. Attach the power card and plug it into the Accu-Vote.
- ◆ Unlock the door on the top of the Accu-Vote machine in preparation of printing the "Zero Report".
- ◆ Print the "Zero Report". After printing DO NOT TEAR OFF. Fold it up and re-lock the door.
- ◆ Make sure that there are zeros on the tape.
- ◆ The unit is now ready to receive ballots.

11

INSPECTIONS

CHECK YOUR BALLOTS

- ✓ Count the packages of official ballots. They are pre-wrapped in packages of 50. DO NOT OPEN THE PACKAGES TO COUNT THE BALLOTS.
- ✓ Write the total number of ballots on the Inspector Checklist and also on the Precinct Ballot Report (located in the Poll List).
- ✓ The Inspector initials the Inspector Checklist & Ballot Report.
- ✓ Check the top ballot in each package to make sure you have received all the correct ballots.

MAKE SURE YOU HAVE THE CORRECT BALLOTS AND THAT YOU GET A GOOD COUNT OF THE BALLOTS THAT YOU RECEIVED. YOU MAY HAVE MORE THAN ONE BALLOT STYLE TO ISSUE THE VOTER. MAKE SURE IT IS THE CORRECT BALLOT!

12

82

012095

012086

SET-UP BOOTHS

- All booths assigned to your precinct shall be set up and used, including the booth for the disabled. An instructional diagram is on each booth.
- Arrange the voting booths so they are in plain view of the board and the voters.



INSPECTION OF VOTING BOOTHS

- Election officials should periodically check the voting booths and remove any miscellaneous items such as notes, campaign literature, etc.
- Make sure the appropriate signs are hanging in each booth - ENGLISH AND SPANISH:
 - o How to mark the ballot
 - o Ballot Issues (if applicable)
- Remove any ball point pens or pencils found in the booths.
- Make sure each booth has a Black Ballot Marking Pen.



RED INK

EARLY (ABSENTEE) VOTERS

- Using the list of Early Voters, make an EV in the box next to the voter's name on the Signature Roster for each voter whose name appears on the list. Use a RED PEN. Leave room for the voter to sign.
- If the Early Voter's name does not appear alphabetically in the Signature Roster in the list of active voters or the list of inactive voters, check the Add-On list in the back of the roster.

POSTING SIGNS

- Post the WRITE-IN CANDIDATES SIGN found in the election supplies in PLAIN VIEW in the polling place. ONLY IF THERE ARE QUALIFIED WRITE-IN CANDIDATES.
- Tape the list of authorized write-in candidates on the WRITE-IN CANDIDATES SIGN. (if applicable)
- Post in PLAIN VIEW in the room where the ballots are cast:
 - o 2 SAMPLE BALLOTS (OF EACH BALLOT STYLE)
 - The sample ballots are in the Supply Box.
 - o 2 INSTRUCTIONS TO VOTERS AND ELECTIONS OFFICERS SIGNS/RIGHT TO VOTE A PROVISIONAL BALLOT COMBO SIGNS
 - o Post the NO SMOKING signs
 - o Post the INSTRUCTIONS ON MARKING THE BALLOTS in each voting booth - ENGLISH and SPANISH and the Ballot Issues (if applicable).

CO
CO

ELECTION DAY



The law requires members of the election board to be present at the polling place by 5:30 a.m. on Election Day. A.R.S. §16-666(A)



BEFORE THE POLLS OPEN

Election Board members must take the Oath found on the inside cover of the Blue Poll List or at the end of this manual. The Blue Poll List can be found in the supply box with the other election supplies.

WRITE THE NAME OF THE PRECINCT ON THE FRONT OF BOTH POLL LISTS.

Any elector of the precinct may administer and certify the oath; however, it is traditionally administered by the Inspector to the Board Members. Afterward, one board member administers the oath to the Inspector. You may also read this aloud together.

After the oath has been administered, election board members shall not leave the polling place

until the polls are closed.



\$ \$ ONCE THE BOARD HAS BEEN SWORN IN

MAKE SURE THAT EVERYONE SIGNS THE PAYROLL VOUCHER AND IF CLAIMING MILEAGE, LICENSE PLATE #!!



FINAL COMPLETION OF THE POLLING PLACE SET-UP

1. Plug in the Accu-Vote. A zero tape will print. ALL RESULTS ON THE TAPE MUST BE ZERO. DO NOT TEAR OFF THE TAPE! It must remain attached to the Accu-Vote. The readout must also register zeros.
2. While the tape is printing, check the arrangement of the polling place to be sure the voting booth and Accu-Vote are in plain view.
3. The Marshal places the three 75 FOOT LIMIT signs in 3 different directions 75 feet from the MAIN ENTRANCE to the polling place. ALL OTHER SIGNS MUST BE PLACED APPROPRIATELY TO ENSURE EASY IDENTIFICATION OF AND ACCESS TO THE POLLING PLACE.
4. No person shall be allowed to remain inside the 75 foot limit while the polls are open except for the purposes of voting and except for the election board and any officially appointed representatives. A.R.S. §16-515
5. It is unlawful for any person to electioneer on Election Day within a polling place or in a public manner within 75 feet of the main entrance of a polling place. Electioneering is any action or publication displayed for or against a candidate or a proposition on the ballot. A.R.S. §16-1018.1
6. Petition circulators, campaign workers, candidates, the news media, and any other person who is not voting must remain outside the 75 foot limit while the polls are open.
7. PLACE ALL HANDICAPPED PARKING SIGNS NEAR CURB CUTS SO THAT THE VOTERS WITH DISABILITIES HAVE EASY ACCESS TO THE CURB CUTS.

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CLEARLY MARK THE PATH FROM THE HANDICAPPED PARKING TO THE POLLING PLACE.

USING THE SIGNS YOU HAVE POSTED AS A GUIDE, CAN A VOTER WITH DISABILITIES FIND THEIR WAY INTO THE POLLING PLACE THROUGH THE ENTRANCE FOR DISABLED PERSONS?

8. Open ~~only~~ 1 package of each ballot style to begin the election. Set-up the tables with the Signature Roster, Poll Lists and pens.

TABLE #1			
BALLOTS	POLL LIST	POLL LIST	SIGNATURE ROSTER
JUDGE	CLERK	CLERK	JUDGE
			←START

TABLE #2			
PROVISIONAL FORBID/ ENVELOPES	PENS	PRECINCT MAP POLLING PLACE LIST	HAZARDOUS SHEET

9. The Inspector should remain near the Accu-Vote during the day, monitoring the count of voters.

10. Place all Provisional Envelopes/Ballots and Early Ballots that are dropped off at the polling place during the day in the side slot of the Black Ballot Box.

11. The Marshal announces the opening of the polls at 6:00 a.m. SHARPE



COMMON KNOWLEDGE

NO SMOKING PLEASE

No smoking by any person is allowed within the polling place.

Be sure to post the NO SMOKING signs and enforce this rule very firmly.

BOARD WORKER COURTESY

Board Workers should always maintain a peaceful and quiet atmosphere in the polling place. Remember, talking and other noises such as radios, televisions, etc. make it difficult for voters to concentrate. Do not accept food from outside the polling place.

PLEASE EAT YOUR FOOD DISCREETLY.



CELLULAR PHONES

CELLULAR PHONES ARE PERMITTED IN THE POLLING PLACE FOR LIMITED USE ONLY BY VOTERS AND POLL WORKERS.

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CAMERAS

THE PUBLIC, MEDIA OR POLL WORKERS CANNOT BRING CAMERAS (VIDEO OR OTHERWISE) WITHIN THE 75 FOOT LIMIT WHILE THE POLLS ARE OPEN AND VOTERS ARE IN THE POLLING PLACE. (PURSUANT TO A.R.S. §16-818)



CHALLENGING A VOTER PROCEDURES

Please call Hotline for assistance, immediately upon Challenge.

The grounds for challenging voters are found in the Inspector's Bag, on the back side of the Challenge List Form. Don't make any entries unless a challenge is made. See A.R.S. §16-593 for rules determining the residence of a voter upon a challenge.

NOTE: A voter who has moved from one DISTRICT to another and who has NOT notified the County Recorder may vote a NEW RESIDENCE PROVISIONAL BALLOT in the District where his/her new address is located.

A majority of the voting members of the election board determines the validity of a challenge. The 2 Judges, together with the Inspector, make up the voting members of the election board. The oath is printed on the front side of the Challenge List Form.

No other affidavit is necessary. If a challenge is made, it's suggested the Inspector have the person challenged step aside and permit the other voters in line to continue to vote.

REMEMBER, CITIZENSHIP CANNOT BE CHALLENGED AT THE POLLS.

QUALIFIED ELECTORS DEFINED

Persons who may vote are:

1. Those electors whose names appear in the Signature Roster, either as Active or Inactive and have not moved from the address as listed. These electors vote by the standard voting procedures.

A list of INACTIVE VOTERS for each precinct has been compiled and placed in the back of the Signature Roster and each of the Precinct Registers. The list of INACTIVE VOTERS can be identified by the separator sheet & title at the top of the page.

If it is determined that the elector has moved from the address that is listed on the Signature Roster/Precinct Register, the elector will be directed to the Apache County Precinct Map to locate the precinct for the new address. The poll worker will find the appropriate polling place for the elector's new precinct and DIRECT the elector to the new polling place.

2. Those electors who surrender a County Recorder's Certificate authorizing the addition of their name to the Precinct Signatures Roster. The elector's names are added to the Signature Roster and they vote by the standard voting procedures. The register numbers for these voters will be the consecutive number after the last name listed in the active portion of the Signatures Roster.
3. Those electors who qualify to vote a Provisional. If an elector's name is NOT found on the Signature Roster, either in the Active or Inactive sections, check the Add-On List in the back of the Signature Roster. Be sure to check for possible misspellings or keying errors. **Check the Alpha Listing to see if they are in Apache County but in another precinct.

If the person's name is NOT found and they have not moved or modified their voter registration record, then they shall be allowed to cast a Provisional Ballot.

If the person's name is NOT found and they do NOT have the VOTER RECEIPT copy of their registration and they are NOT currently registered in Apache County, then the poll worker will give the person a blank registration form to complete. Have the person complete the form and return it to the poll worker to be forwarded to the Elections Department in the envelope provided. That person must vote a provisional ballot at the current election.

4. Electors whose names were reported to the Inspector on the Early Ballot List, but who state to the election board that they did not vote, will not vote or are unable to vote their Early Ballot. Such electors will be allowed to vote by Provisional Ballot Procedure.

INACTIVE VOTERS

"If the notice sent by the recorder is not returned, the registrant may be required to provide affirmation or confirmation of the registrant's address in order to vote."

A.R.S. § 16-166(E)

If a voter is listed on the INACTIVE LIST, that voter must re-register.

VOTING PROCEDURES

This section will lay out step by step instructions for the Board Workers, telling you exactly what needs to be done from the time the voter walks in the door to the time he/she inserts their ballot into the Accu-Vote.

STANDARD VOTING PROCEDURE

Electors whose names appear on the Signature Roster or who submit a County Recorder's Certificate to the board will vote by the following procedure:

- 1) The voter reports to the Election Official assigned to the Signature Roster and announces their full name and address. Be sure to check address as well, if the voter

lives at a different address they will need to report to the Provisional Ballot (BTV) Tables for processing.

- a. The election official locates the voter's name in the Signature Roster, either in the list of regular (Active) voters, the list of Inactive Voters or Add-ons and verifies that the address is correct by asking the voter their address.
 - b. The election official asks the voter to sign the signature block next to their name. The election official tells the Poll List Clerk the voter's Register Number.
- 2) The Poll List Clerk locates the voter's name in the Precinct Register and enters the voter's name and Register Number on the next available line of the Poll List. USE A BALL POINT PEN. Call out the voter's Register Number to the Judge issuing ballots.
 - a. Please PRESS HARD. The Register Number for an Inactive Voter is preceded with the letter "I".
 - b. USE ONLY ONE (1) POLL LIST AT A TIME.
 - 3) The Judge looks up the voter by Register Number in the Precinct Register.
 - a. The Judge selects the proper ballot and gives it to the voter. Secrecy folders should be used for all voters.
 - b. Explain that a special black ballot marking pen must be used. Reminding the voter that they must fill in the oval entirely.
 - c. Explain that ballots that are damaged or mis-marked must be spoiled and a replacement ballot will be issued. LIMIT 3.
 - d. Explain how the ballot is inserted into the Accu-Vote, by the Voter.
 - e. Explain how to do a write-in, remember that the voter must write the candidate's name AND fill in the oval.
 - f. Be sure to remind the voter to vote BOTH sides of the ballot, if applicable.
 - 4) The voter enters a voting booth and marks the ballot with the special black ballot marking pen. The pen is left in the booth. Periodically, check the booths and make sure that each has a special black ballot marking pen.
 - a. After voting, the voter puts the official ballot in the secrecy folder and goes to the Accu-Vote.
 - b. The voter REMOVES the official ballot from the secrecy folder and inserts the ballot into the Accu-Vote. The ballot can be inserted in the Accu-Vote in any direction. The voter gives the secrecy folder to the election official.

- c. THE ELECTION OFFICIAL SHOULD STAND TO THE SIDE OR BACK OF THE ACCU-VOTE. THE BALLOT IS SECRET.
- d. DO NOT INSERT THE BALLOT IN THE ACCU-VOTE FOR THE VOTER unless the voter asks you for assistance.

A VOTER DOES NOT HAVE TO VOTE FOR EACH AND EVERY CANDIDATE OR ISSUE ON THE BALLOT. THIS IS CALLED UNDER VOTING. THE ACCU-VOTE DOES NOT REJECT A BALLOT BECAUSE OF AN UNDER VOTE. EVEN IF A VOTER HAS BEEN GRANTED POWER OF ATTORNEY, THEY CANNOT VOTE ON BEHALF OF THAT VOTER.

SPOILED

SPOILED BALLOTS

1. If a voter makes a mistake on the ballot, it may be exchanged for another. No more than 3 ballots may be issued to one voter. Remember, on Early Ballot counts for 11
2. The word "SPOILED" is written across both sides of the ballot by the voter. The Inspector, Judge & Voter MUST SIGN the Spoiled ballot. If the voter wishes, the election official may write the word "SPOILED" across both sides of the ballot.
3. The Spoiled ballot must be placed in the Official Envelope Immediately. You may want to put a secrecy folder in the Official Envelope to protect the secrecy of any ballots. Removes the folder after the polls have closed.
4. The election official shall look up the voter's name in the Precinct Register, select the correct ballot and issue it to the voter.

DO NOT PUT SPOILED BALLOTS INTO THE BLACK BALLOT BOX. THEY MUST GO INTO THE OFFICIAL ENVELOPE IMMEDIATELY.

THE VOTER MAY HAVE ONLY ONE BALLOT IN THEIR POSSESSION AT A TIME.

NEVER PRESS 'YES' TO OVERRIDE AND ACCEPT A VOTER'S BALLOT WITHOUT THE VOTER'S PERMISSION.

A JAMMED BALLOT MUST BE REMOVED FROM THE ACCU-VOTE UNIT BUT NOT IF IT HAS FALLEN INTO THE BLACK BOX. DO NOT GET OUT OF THE BLACK BOX, JUST MAKE A NOTE ON THE TAPE THAT THIS HAPPENED. INDICATED IF IT WAS COUNTED OR NOT.

OVERVOTED BALLOT

If a voter has voted for more candidates than are to be elected to an office, the Accu-Vote will reject the ballot and return it to the voter. The message "OVERVOTED BALLOT" and the office that was overvoted will print on the tape. THE ELECTION OFFICIAL MUST READ THE MESSAGE ON THE TAPE. The voter can do the following:

1. The ballot can be spoiled. If the voter wants to spoil the ballot, the words "SPOILED" must be written on both sides of the ballot & signed by Inspector, Judge & Voter.
2. The ballot will be spoiled and a replacement ballot issued to the voter. The voter should go back into the voting booth to vote the replacement ballot. During this time, let other voters continue to vote. KEEP THE LINE AT THE ACCU-VOTE MOVING!
3. If the voter refused to vote a replacement ballot and at the request of the voter, the election official can press "YES" button and the ballot will be accepted.

THE ACCU-VOTE WILL ACCEPT THE BALLOT AND EVERYTHING ON THE BALLOT WILL BE COUNTED EXCEPT THE OFFICE OR ISSUE THAT IS OVERVOTED.

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UNVOTED BLANK BALLOT

If a voter has inserted an "unvoted" blank ballot into the Accu-Vote, the Accu-Vote will return the ballot. The message, "UNVOTED BLANK BALLOT" will print on the tape. The voter can do the following:

1. If the ballot was simply mis-marked the voter can vote that ballot. The ballot can be given to the voter with instructions to return to the voting booth to mark the ballot. During this time, other voters continue to insert their ballots into the Accu-Vote.
2. At the request of the voter, if the voter intentionally voted a blank ballot, the election official can press the "YES" button and the Accu-Vote will accept the ballot.
3. A voter cannot use white-out, cross out or erase on a ballot.
4. IF THE VOTER MARKS THE BALLOT OUTSIDE THE OVAL, THE BALLOT MUST BE RE-MARKED CORRECTLY, STAYING WITHIN THE OVAL, AS SHOWN ON THE INSTRUCTIONS IN THE VOTING BOOTH.

MISREAD BALLOTS

If a ballot is misread, meaning that for some reason the Accu-Vote is not able to process the ballot, the Accu-Vote will return the ballot. A message will print on the tape. A misread ballot can be one of the following:

1. A damaged ballot.
2. Misprinted ballot.
3. Voter marked ballot in the heading.
4. Incorrect ballot—ballot from another precinct.
5. Voter inserts ballot into wrong Accu-Vote in a co-located polling place.

- > A misread ballot should be spotted and a replacement ballot issued.
- > If the voter will not vote a replacement ballot, have the voter drop the ballot in the side slot of the Ballot Box.

- > DO NOT USE THE "YES" TO OVERRIDE". The Accu-Vote will not accept a second ballot.
- > BE SURE TO INSTRUCT THE VOTER THAT THE MISREAD BALLOT WILL BE TABULATED AT ELECTION CENTRAL LATER THAT NIGHT.

PROVISIONAL BALLOT (BALLOT TO BE VERIFIED) PROCEDURE

There are 4 different situations for issuing a Provisional Ballot (formerly known as Ballot To Be Verified):

- a. The voter's name does not appear on the Signature Roster.
- b. The voter has moved within the precinct. (New Residence Ballot)
- c. The voter has moved outside of the precinct. (New Residence ballot)
****the voter must go to their new polling place to vote.****
- d. The voter has requested or received an early Ballot and did not bring the Early Ballot to the polling place for voting.

VERIFICATION PROCEDURE FOR ISSUING OF THE PROVISIONAL BALLOT

(IF THE VOTER IS WILLING TO ATTEST TO THE FACT THAT THEY HAVE LIVED WITHIN A JURISDICTION FOR MORE THAN 29 DAYS, THEY WILL BE ALLOWED TO VOTE A PROVISIONAL BALLOT IN THAT JURISDICTIONS ELECTION.)

1) VOTER'S NAME DOES NOT APPEAR IN SIGNATURE ROSTER

- a. If the voter's name is not on the regular (active) list of voters, the inactive list of voter's or the Add-On List, the voter should produce the Voters Receipt copy from their registration form or a Voter I.D. Card.
- b. The election official shall find the voter's address on the precinct map. Make sure the voter lives within the boundaries of this precinct.
- c. The election official shall complete the Provisional Ballot form. Two election officials and the voter must sign the form.
- d. If the voter has a Voter I.D. Card or Voter's Receipt, clip it to the outside of the envelope. DO NOT PUT IT INSIDE THE ENVELOPE.
- e. Give the envelope to the voter and ask the voter to return to the Signature Roster.

- f. On the **PROVISIONAL BALLOTS** page of the back of the Signature Roster, the election official enters the voter's name and other identifying data as shown in the Signature Roster. These voters are assigned register numbers beginning with V-1, V-2, etc. A voter's name is added to the Signature Roster ONLY if the voter's name is NOT on the Signature Roster.
- g. The voter signs the signature block next to their name. The election official tells the Poll List Clerk the voter's Register Number.
- h. The Clerk fills out the Poll List. **USE ONLY A BLACK PEN.**
- i. The Judge looks up the voter in the Precinct Register and selects the proper ballot.
- j. The Judge puts the ballot in a Secrecy Folder and gives it to the voter.
- k. The voter enters a voting booth and marks the ballot with the special black ballot marking pen. **DO NOT USE FELT PENS!!!**
- l. After voting the voter puts the ballot in the Provisional Envelope and closes and seals the envelope.

THE VOTER SHALL INSERT THE PROVISIONAL BALLOT INTO THE SIDE SLOT OF THE BLACK BALLOT BOX. DO NOT PUT INTO ACQU-VOTE.

2) VOTER HAS MOVED WITHIN YOUR VOTING PRECINCT

- a. If the voter's name is on the Signature Roster, but the voter has moved.
- b. Verify the location of the new residence address on the precinct map.
- c. The election official shall find the voter's address on the precinct map. Make sure the voter lives within the boundaries of this voting precinct.
- d. The election official shall complete the Provisional Form. Two election officials and the voter must sign the form.
- e. Attach the form to the manila envelope provided. Give the envelope to the voter and ask the voter to return to the Signature Roster.
- f. The voter signs the signature block next to the voter's name. The election official tells the Poll List Clerk the voter's Register Number. **DO NOT ADD THE VOTER'S NAME TO THE ROSTER. IT IS ALREADY THERE.**
- g. The Clerk fills out the Poll List using a black ball point pen.
- h. The Judge looks up the voter in the Precinct Register and selects the proper ballot.
- i. The Judge puts the ballot in a Secrecy Folder and gives it to the voter.
- j. The voter enters a voting booth and marks the ballot with the special black ballot marking pen.

- k. The voter puts the ballot in the manila envelope and closes and **SEALS** the envelope.
- l. **THE VOTER SHALL INSERT THE PROVISIONAL BALLOT IN THE SIDE SLOT OF THE BLACK BALLOT BOX.**

3) THE VOTER HAS MOVED TO A NEW VOTING PRECINCT

- a. If the voter's name is in the Signature Roster, but the voter has moved to a residence address located in another voting precinct, direct the voter to the precinct map.
- b. The election official, in cooperation with the voter, will locate the voter's new residence address on the Precinct Map.
- c. The election official shall look up the address of the polling place on the Alpha List and **direct the voter to go to the new polling place to vote a Provisional Ballot.**

IF THE VOTER IS ALLOWED TO VOTE A PROVISIONAL BALLOT IN THE WRONG PRECINCT, THE BALLOT WILL NOT COUNT.

4) THE VOTER REQUESTED AN EARLY BALLOT

These voters will be indicated in the Signature Roster with a RED EV in the box next to their name.

- a) The election official shall complete the Provisional Ballot Form. Two election officials and the voter must sign the form.
- b) Attach the form to the manila envelope provided. Give the envelope to the voter and ask the voter to return to the Signature Roster.
- c) The voter signs the signature block next to the voter's name. The election official tells the Poll List Clerk the voter's Register Number. **DO NOT ADD THE VOTER'S NAME TO THE ROSTER. IT IS ALREADY THERE.**
- d) The Clerk fills out the Poll List in Red Ink.
 - i. **USE A RED BALL POINT PEN.**
- e) The Judge looks up the voter in the Precinct Register and selects the proper ballot.
- f) The Judge puts the ballot in a Secrecy Folder and gives it to the voter.
- g) The voter enters the voting booth and marks the ballot with the special black ballot marking pen.

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h) The voter folds the ballot in half and puts it in the envelope and closes and SEALS the envelope.

i) THE VOTER SHALL INSERT THE BALLOT ENVELOPE INTO THE SIDE SLOT OF THE BLACK BALLOT BOX.



EARLY BALLOTS DELIVERED TO YOUR POLLING PLACE

VOTED EARLY BALLOTS CAN BE DROPPED OFF AT ANY POLLING PLACE BY 7:00 P.M. ON ELECTION DAY.

IF A VOTER SHOWS UP WITH AN EARLY BALLOT TO "SURRENDER", UNLESS THERE IS SOMETHING WRONG WITH THE BALLOT THE VOTER SHALL DO THE FOLLOWING:

- ✓ GO TO A BOOTH AND VOTE THE BALLOT WITH THE SPECIAL MARKING PEN.
- ✓ SIGN AND DATE THE BALLOT AFFIDAVIT ENVELOPE.
- ✓ FOLD AND PLACE THE VOTED BALLOT INTO THE ENVELOPE.
- ✓ SEAL THE ENVELOPE.
- ✓ INSERT THE ENVELOPE INTO THE SIDE SLOT OF THE BLACK BALLOT BOX.

IF THE VOTER HAS SPOILED THEIR EARLY BALLOT, THEY MUST VOTE A PROVISIONAL BALLOT AT THEIR ASSIGNED POLLING PLACE.

NEVER ISSUE A REPLACEMENT BALLOT TO BE USED WITH AN EARLY BALLOT PACKET.

THEIR EARLY BALLOT AFFIDAVIT MUST BE SIGNED AND SEALED, AS IF THEY WERE DROPPING IT IN A MAIL BOX- IF NOT, THEY HAVE TO VOTE A PROVISIONAL BALLOT AT THEIR ASSIGNED POLLING PLACE.

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SAFETY IN THE POLLING PLACE

It is up to the Marshal or designee to see that reasonable safety precautions are taken in a polling place during Election Day. Reasonable precautions should include, but are not limited to the following:



> Voter traffic ways are clear of debris 

> Extension cords are out of the way 

> Chairs are behind tables or off to the side 

> Electrical appliances are out of the way of voter traffic flow and out of the reach of small children



Electrical appliances, such as coffee pot, will be allowed in the polling place for the use of board workers ONLY WITH PRIOR APPROVAL OF THE FACILITY'S OWNER/MANAGER.

ANY ACCIDENT OR INJURY IN A POLLING PLACE REQUIRING EMERGENCY TREATMENT SHALL BE REPORTED IMMEDIATELY TO THE 9-1-1 EMERGENCY NUMBER. ALSO, REPORT ANY ACCIDENT OR INJURY BY CALLING THE HOTLINE #.



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COMMON COURTESIES AND GUIDELINES FOR VOTERS WITH SPECIAL



NEEDS

- Be considerate of the extra time it might take for a person who is disabled or elderly to get things done.
- Speak directly to the person who has a disability rather than to a companion who may come along.
- Speak calmly, slowly and directly to a person with a hearing problem. Don't shout.
- Before pushing someone in a wheelchair, ask if you may do so and how you should proceed.
- Greet a person who is visually impaired by letting the person know who and where you are.
- Be aware that dogs which assist people with disabilities should be admitted into the polling place. These dogs are highly trained and need no special care.
- Remember that all voters deserve courteous attention in exercising their rights as citizens to vote.

USE PLENTY OF SIGNS TO INDICATE THE WAY TO THE DISABLED VOTERS

ENTRANCE INTO THE POLLING PLACE ONE WAY

ASSISTANCE TO VOTERS

- Any voter may, at their option, be accompanied and assisted by a person of their choice or shall be assisted by 2 election officials (DEM & REP).
- If the election officials assist the voter, they shall distinctly state to the voter the names of all candidates for each office or the written description of the ballot measures and shall ask the voter how they wish to vote in each instance.
- The election officials shall then mark the ballot indicating the voter's choices.

- Neither of the election officers who assist you with your vote are allowed to influence your vote by recommending or suggesting any candidate or political party for any office.

VOTERS WITH DISABILITIES (CURBSIDE VOTING)

The Americans with Disabilities Act of 1990 establishes guidelines for the accessibility of facilities to the disabled community. Where accessibility for voters with disabilities is not achievable, the Secretary of State has established an alternate voting procedure.

For precincts determined to be less accessible, a sign notifying any disabled voters of the alternative method for voting is included in the precinct supplies. Post sign near the disabled parking signs in the parking lot. THIS IS A CURBSIDE VOTING AVAILABLE SIGN.

- o The disabled voter should relay a message through a companion, or other nearby person, to the precinct election board that he/she wishes to vote.
- o The Marshal verifies the voter's registration on the Signature Roster and enters the voter's registration information from the roster onto a Disabled Voter Signature Affidavit found in the precinct supplies on a clipboard.
- o The Inspector directs 2 board workers (DEM & REP) to proceed to the voter's vehicle with an official ballot, special black ballot marking pen and secrecy folder. The voter signs the affidavit, votes the ballot and places it in the secrecy folder.
- o The 2 board workers return to the voting area and present the ballot to the election official of the Accu-Vote. The election official removes the ballot from the Secrecy Folder and puts the ballot into the Accu-Vote. The board workers give the Disabled Voter Affidavit to the election official at the Signature Roster, who puts it in the back of the roster, and enters "DISABLED VOTER" in the signature block next to the voter's name. The Clerk enters the voter's name into the Poll List.

CLOSING THE POLLS

The closing of the polls is announced by the Marshal at 1 hour, at 30 minutes, at 15 minutes, at 1 minute before, and at the moment of closing, which is 7:00 p.m. **ALL ELIGIBLE VOTERS IN THE LINE AT 7:00 P.M. WILL BE ALLOWED TO VOTE.**

AFTER THE LAST PERSON HAS VOTED, ANYONE CAN OBSERVE THE CLOSING OF THE POLLS. PICTURES CAN BE TAKEN AS LONG AS THERE ARENT ANY CLOSE-UPS. THE PUBLIC CANNOT INTERFERE WITH THE CLOSING PROCESS.

After the last person has voted:

- Open the door on the top of the Accu-Vote with the gold key. While pressing the "YES" and "NO" buttons, insert the Yellow Ender Card. This officially ends the election and a results tape will print.
- Print 2 copies of the results tape. The Inspector and the Judge sign the bottom of the tape.
- While the results tape is printing, remove the ballots from the Black Ballot Box.
- Using the Ballot Map, begin to sort the various ballots and complete the Ballot Report (found in the Poll List)
- All of the voted ballots, including the Provisional and Early ballots are placed in the Black Ballot Bag and secured with the Blue Seal. (DO NOT SEAL UNTIL ALL ITEMS ON THE BALLOT BAG CHECKLIST ARE INSIDE THE BAG)
- ONLY THE ITEMS LISTED ON THE OFFICIAL AND UNOFFICIAL ENVELOPE CHECKLIST SHOULD GO INSIDE THEM.



- **PUT THE OFFICIAL SEAL ON THE OFFICIAL ENVELOPE ONLY.**
- Put the unused ballots in a box (if they were sent in a separate box, if not they go into the Blue Supply Box).
- All other supplies should be returned to the Blue Supply Box and locked.
- Unlock the front door of the Black Ballot Box holding the Accu-Vote machine.
- Plug in the phone cord to the back of the Accu-Vote in preparation for the transmitting of the results.

- Take to the phone to the designated transmitting location. Plug jack in.
- The message on the digital readout will ask if you want to transmit results. Press "YES". It will sound like an Internet connection.
- It should send within 2-3 tries.
- When the results are sent, you may turn off the Accu-Vote.
- The Accu-Vote and Black Ballot Bag will be transferred to the St. Johns Election Office by the Troubleshooter.
- All other equipment will be picked up by another truck.
- **PLACE THE KEY RING WITH ALL KEYS IN THE SIDE POCKET OF THE BLACK ACCU-VOTE BAG. DO NOT PUT THEM IN THE UNOFFICIAL OR OFFICIAL ENVELOPE.**
 - ✓ Make sure that everyone has signed the Payroll Voucher!!
 - ✓ Leave the polling place in better condition than you found it. Remove all trash and loose papers.
 - ✓ Turn out the lights, turn off the a/c or heating and lock the door before you leave the polling place.



TIME TO GO HOME!!

Return to:
Apache County Recorder/Elections



2003-10574
Page 1 of 39
OFFICIAL RECORDS OF APACHE COUNTY
MARGARET A COALTER, RECORDER
12-08-2003 12:42 PM Record as Fee \$0.00

NAVAJO LANGUAGE ELECTION TERMINOLOGY



Copyright December 2003
Revised and Amended
until further notice.

By: Apache County,
Arizona

STATE SENATOR

Nitsaa Hahoodzo Adeii Hooghanji Naat'aanii

STATE REPRESENTATIVE

Nitsaa Hahoodzo Ayeil Hooghanji Naat'aanii

SECRETARY OF STATE

Nitsaa Hahoodzoi Naaltsos Ii'ini Nitsaafgi

STATE TREASURER

Nitsaa Hahoodzoi Naat'aanii Ináolta'i Béeso Yaa'ahályani

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION(AZ)

Nitsaa Hahoodzoi De'olta' Binant'a'i

STATE BOARD OF EDUCATION (NM)

Nitsaa Hahoodzoi De'olta' Binant'a'i Á Dah Nidinibjihgfi

STATE MINE INSPECTOR

Nitsaa Hahoodzoi Hada'agédjii Yik'i Déez'f'lgfi

C. COUNTY OFFICIALS

Áits'isi Hahoodzoi Naat'aanii Danilnigfi

COUNTY OFFICES

Áits'isi Hahoodzoi De'infish Bii Nahaz'anigfi

CONSTABLE

Siláoshchfin

COUNTY ASSESSOR

Áits'isi Hahoodzoi Ináolta'i Neilkaahigfi

COUNTY ATTORNEY

Áits'isi Hahoodzoi Agha'diita'aahii Nitsaafgi

COUNTY BOARD OF SUPERVISORS (AZ)

COUNTY COMMISSIONER (NM,UT)

Áits'isi Hahoodzoi Naat'aanii Á Dahndinibjihgfi

COUNTY CLERK OF THE SUPERIOR COURT
 Áts'Isi Hahoodzoi Adeil Aahwiint'íjii Naaltsos Akéé' Yisniilgíí

COUNTY JUSTICE OF THE PEACE (AZ)
MAGISTRATE COURT JUDGE (NM)
 Áts'Isi Hahoodzoi Ayeil Aahwiint'íjii Nihwii'aahii

COUNTY RECORDER (AZ)
COUNTY CLERK (NM)
 Áts'Isi Hahoodzoi Naat'aanii Naaltsos Da'ílinii Yaa'áhalyániíí

COUNTY SCHOOL SUPERINTENDENT
 Áts'Isi Hahoodzoi Da'ólta' Bimant'a'í

COUNTY SHERIFF
 Áts'Isi Hahoodzoi Siláo Bimant'a'í

COUNTY SUPERIOR COURT JUDGE
 Áts'Isi Hahoodzoi Adeil Aahwiint'íjii Nihwii'aahii

COUNTY TREASURER
 Áts'Isi Hahoodzoi Naat'aanii Ináolta'í Béeso Yaa'áhalyáni

DISTRICT JUDGE (NM)
 Áts'Isi Hahoodzo Aahwiint'í Bii Hahoodzoi Nihwii'aahii

FIRE DISTRICT BOARD MEMBERS
 Kó' Yinitésí Bii Hahoodzoi Á Dah Nídinibíhígíí

PRECINCT COMMITTEEMEN
 Inida'iinígóó Nitsaago Nahat'á A'paa Bee Dahda'íldééhíí Yá Naazinígíí

SCHOOL GOVERNING BOARD
 Ólta' Bimant'a'í Á Dahnídinibíhígíí

D. NAVAJO NATION GOVERNMENT
 Diné Bi Wááshindoon

NAVAJO NATION OFFICIALS
Diné Binant'a'i Danilnigíí

NAVAJO NATION OFFICES
Diné Báda'íntíshjí

NAVAJO NATION PRESIDENT
Diné Binant'a'i Aláají' Dahsidáhígíí

NAVAJO NATION VICE PRESIDENT
Diné Binant'a'i Akéé' góne' Dahsidáhígíí

NAVAJO NATION SPEAKER OF THE COUNCIL
Béesh Bąh Dahsi'áni Yá Dahnándaahígíí

NAVAJO NATION COUNCIL
Béesh Bąh Dahnaaznili

NAVAJO NATION COUNCIL DELEGATE
Béesh Bąh Dahsi'áni

CHAPTER OFFICIALS
Táá'naaznili

CHAPTER OFFICES
Táá'naaznili Bi Oonishjí

CHAPTER PRESIDENT
Táá'naaznili Aláají' Dahsidáhígíí

CHAPTER VICE PRESIDENT
Táá'naaznili Akéé' góne' Dahsidáhígíí

CHAPTER SECRETARY
Táá'naaznili Bi Naaltsoos Íí'ini

CHAPTER GRAZING MEMBER
1. Dibé Binant'a'i
2. Dibé Binaaltsoos Binant'a'i

CHAPTER LOCAL SCHOOL BOARD MEMBER
Ólta' Binant'a'i

CHAPTER LAND BOARD
Kéyah Binant'a'i

FARM BOARD
Dá'ák'eh Binant'a'i

APPOINTED OFFICIALS
Naat'aanii Bik'hodiinii'igfi

APPOINTEE
Naanish Biniyé Bik'hodiinii'igfi

BUREAU OF INDIAN AFFAIRS (B.I.A.)
Wááshindoon Bikági Yishtizhii Bit Oonishji

B.I.A OFFICES
Wááshindoon Bá Da'infishji

B.I.A OFFICIALS
Wááshindoon Alqaji' Naazinii Bá Da'infishji

B.I.A AREA DIRECTOR
Bikági Yishtizhii Bit Oonishji Naat'aanii T'ááá'igfi

B.I.A AGENCY SUPERINTENDENT
Wááshindoon Naat'aaniishchifn Yá Dahsidáhiigfi

B.I.A BRANCH OF LAND MANAGEMENT
Wááshindoon Kéyah Bi'oonishji

B.I.A BRANCH OF ROADS
Wááshindoon Attin Bi'oonishji

B.I.A BRANCH OF EDUCATION
Wááshindoon Bi'ólta' Bi'oonishji

CHAPTER HOUSE

1. Táá' Naaznilí Bighan
2. Bii' Átah Ná'adleeht

COMMUNITY HEALTH REPRESENTATIVE

Ats'lis Baa'áshyááji Hootaagháht

COMMUNITY SERVICE COORDINATOR

Táá' Naaznilí Yá Hook'ee Sidáhígi

ELECTED OFFICIALS

Naat'aanii Bá Ada'is'nílgíi

NAVAJO RESERVATION (NAVAJO NATION)

Diné Bikéyah

OFF- RESERVATION

1. Diné Bikéyah Dóó T'óó'jigo
2. T'óó'ji

STAFF / WORKERS

Deilnínshígi

SUPERVISOR

Bá Da'nínshígi

E. ABSENTEE

Bitséedi E'et'áád

ABSENTEE VOTING IN PERSON (NM)

Tááhó Yah Ajílkáago Bitséedi Naltsoos Bee Ida'jiiiníi

ABSENT UNIFORMED SERVICES VOTER

Siláátsosíi Anida'i'níhígi

ACTIVE DATA PROCESSING MEDIA

Iis'níi Át'éegi Bee Akéé'y'i'níigo Yaa Halne'ígi

ACTIVE LISTING

Aná'át'a'ji Yízhí Ílįigo Naaltsos Bee Si'ánįgí

AFFIDAVITS (NM)

1. Iná'át'a'ji Naaltsos Á Hadadilne'įgí Ílįigo Álnééh
2. Iná'ár'a'ji Naaltsos Ílįigo Álnééh

AFFIRMATION

1. Aoo'
2. T'áá' aaníí

ALTERNATE MEMBER (S) BOARD(S) / COMMITTEE
Héesdáńįgí / Héestini

ALL MAIL BALLOT ELECTION (AZ)

ALL MAIL OUT ELECTION (NM)

Naaltsos Áhi'ńįįgí T'óó Ach'į' Bít Áda'alne'go Bee Ǫ'ńńíí

AMENDMENT

Bee Haz'ánii Nák'aas

APPEALS

Baa Náshwiidńóót'įįgo Wókeed

APPELLATE COURTS

Aa Náhwini'įįí Nihwii'aah

APPLICABILITY

Bida'déet'įgí / Bideet'įgí

ARGUMENT

Algha'dit'áahgo Nabik'iyáti'

ARIZONA REVISED STATUTE TITLE XVI

Hoozdo Hahoodzoi Ǫ'ńńíí Bibeetaz'ánii Hastáá Ts'áadah Góne' Si'ánįgí

AUDIT

Ǫ'is'ńil Át'éegi Béehoóńįgo Ályaa

BALLOT

Naaltsos Bee Tii'nihgii

BALLOT BOX

Tsits'aa' Biyi'ji' Tii'nihgii

BALLOT CHALLENGE (NM)

EARLY BALLOT CHALLENGE (AZ)

Tii'nift Bits'edi Foot'ah Nit'ee' Baa Saad Hazli'

BALLOT LABEL

Tii'niftgo Naaltsos Bee E'ehozinigi

BALLOT REPORT

Tis'nii Doo Bii'ji' Naaltsos Ahees'nii Bee Baan'ahane'igii

BOARD

Naat'aanii A Dah Nidinibijihgii

BOARD OF REGISTRATION

Hada'dilne' Ya Dah Nidinibijihgii

BOND ELECTION

Bee Ni'doonish Biniy' B'eeso Wo'keedji Tii'nift

BOUNDARY

Hoodzo

BRIBERY

Adeen'ago La'da Bini'ahojile'h

BURDEN OF PROOF

Ts'ida Doo Naaki' Niljigoo Bee E'ehoozjii

CAMPAIGNING MATERIALS

Nahat'a Biniy' Oolwo'ji Chodao'inigii

COUNTY

A'its'isi Hahoodzo

CANDIDATE

1. Naat'aanii Adoodleelgo Yilwohigii
2. Naat'aanii Yiniye Adeehadoodz'igii

CANDIDATE FILING DEADLINE

Naat'aanii Adoodleelgo Naaltsos Nehe'niigii Aich' Análnéeh

CANDIDATE OPEN FILING DATE

Naat'aanii Adoodleel Biniye Naaltsos Nehe'niif Bá Aq'álnéeh

CANDIDATES

Naat'aanii Adoodleelgo Deijjeehigii

CANDIDATES CAMPAIGN COMMITTEE

Naat'aanii Adoodleelgo Deijjeehigii Yá Dah Naháaztánigii

CANVASS

Ada'isniigii Iijigo Alyaa

CENSUS NUMBER

1. Béesh Názbasi
2. Béesh Táhi

CENTRAL COUNTING BOARD (AZ)

COUNTING JUDGE (UT)

CANVASSING BOARD (NM)

Iiis'nil Wólta' Yá Dah Nidinbijiigii

CERTIFICATE (S)

Honeeznáago Naaltsos Bee Éthózinigii

CERTIFICATE FOR VOTING

Naaltsos Binahji' P'door'aigii

CHALLENGE

Baa Saad Hazlji'

CITY OR TOWN DISTRICT

Kindahshijaa' Bináhásdzo

CITIZENS

Íijigo Kéyah Bii' Kéédahojit'ini

CIVIL RIGHTS HAVE BEEN RESTORED

Lah Hodit'éhee Óhólníh Ídét'í'ígíí Haa Nídeet'á

CIVIL RIGHTS

Lah Hodit'éhee Óhólníh Ídét'í'ígíí

CLOSING OF POLLS

Íit'niíí A'ch'í' Ánánééh

CODE

Bee Haz'áanii Bee Ééhózinii

COERCION OF EMPLOYEES

Naalnishí Bínlchxééh

COERCION OF VOTERS

Anída'a'a'ii Bínílkad

COMMISSION

Bá Sinilígíí

COMMITTEE

Bits'áná'niígíí

COMMUNITY COLLEGE DISTRICT GOVERNING BOARD (NM)

Bidziilgo Wóhdaigo Ólta' Bii' Hahoodzoojí Naat'áanii Á Dahnídinibjiihígíí

CONGRESS

Wááshindoon Adeil Dóó Ayeil Hooghanjí Naat'áanii Danilínígíí

CONGRESSMEN / WOMEN

Wááshindoon Adeil Dóó Ayeil Hooghanjí Naat'áanii

CONGRESSIONAL DISTRICT

Wááshindoon Adeil Dóó Ayeil Hooghanjí Naat'áanii Bii' Hahoodzo

CONSECUTIVELY

T'áá Álkéé' Hon'áago Áhooníí'

CONSENT DECREE

Bi'doolniiigo Bee Aha'dect'áanii

CONSOLIDATED PRECINCTS

Anída'íí'nit Bit Hadahwiisdzo Añiib Yidzo

CONSPIRACY

1. T'áá Nahont'inee Binahat'á
2. T'áá Nahont'inee Nahat'á

CONSTITUTION

Bee Haz'áanii Nitsaaf Bindii'a'

CONTEMPT

Doo Ak'ehó'í'

CONTEST OF ELECTION

Íiis'nilyeé Baa Saad Hazíí'

CONTRIBUTION

Béeso Bee Íiilyeed

CONVENTIONS

1. Da'níits'áá'déé' Nitsaago Baa Álah Aleeh
2. Da'níits'áá'déé' Nitsaago Bee Ahida'diildééh

CONVICTED

Hak'íjí' Nihoot'á

CONVICT/S

1. Awáalya Hótsaagóó Bá Nihoot'áanii
2. Awáalya Hótsaagóó Bá Nidahwiist'áanii

COUNTY DEMOCRAT PARTY CHAIRPERSON

Álts'ísi Hahoodzojí Dzsanééz Bee Dah Ooldah Alqají' Dah Sidáhígí'

COUNTY GOVERNMENT
Áts'isi Hahoodzo Bi Wááshindoon

COUNTY REGISTER
Áts'isi Hahoodzo Aná'ii'níí Naaltsos Yizhi Bee hadt'éhígíí

COUNTY REPUBLICAN PARTY CHAIRPERSON
Áts'isi Hahoodzoi Chííhyee'adilohii Bee Dah Ooldah Alajj' Dah Sidáhígíí

COUNTY VOTER LIST (S)
1. Áts'isi Hahoodzo Aná'ii'níí Naaltsos Yizhi Bee Si'ánígíí
2. Áts'isi Hahoodzo Aná's'a'ii Dabizhi' Naaltsos Bee Si'ánígíí

COURT OF APPEAL (AZ)
TRIAL COURT (NM)
Adeif Aadahwiint'í

CURB SIDE VOTING
Bich' Anáhóó't'ii T'íóodi E'e'áád

DATA PROCESSING BOARD
Naaltsos Bee Éédahózinii Hahindééh Yá Dah Nidinb'íhígíí

DATE
Yookáligíí

DATE OF BIRTH
1. Ho'dizhch'í Bijiígóne'
2. Hodishch'íígóne'

DAY
Íí

DEMOCRAT PARTY
Dzaanééz Naha'tah Bee Dah Ooldah

DISCRIMINATE
1. Nahdi Kóho'dólzín
2. Doo Ho' Ólta' Da

DISTRICT

Bit Hahoodzo

DOCUMENTS

Naaltsos Da'liinigi

DOMICILE

Anich'a'agi

DOUBLE VOTING

Naakidi Ani'ji'ah

DUPLICATED BALLOT

Naaltsos Bee I'oot'ahigi Yichogo Bitsesk'ehgi La' Haa dilneeh

DUTIES AND POWERS

Na'anishji Ohonih

EARLY BALLOT

I'iniit Bitsedi Naaltsos Bee Ina'ata'igi

EARLY BOARD (AZ / NM)

1. I'iniit Bitsedi I'is'nil Ya Dahndinbijihiigi

2. I'iniit Bitsedi I'is'nil Ya Dahnahaztanigi

EARLY VOTING

I'iniit Bitsedi E'et'ad

EARLY VOTING SITES

Bitsedi I'iniit Bi Nidahoot'ahgi

ELECTION

I'iniit

ELECTION CERTIFICATION

I'iniit Bina'niltin

ELECTION CODE

I'iniit Bi Beehaz'ani

ELECTIONEERING
Ti'níłtji Biniyé Ayájlłti'

ELECTION OFFENSES
Ti'níłtji Bi Beehaz'áanii Bit Ni'iidzłłh

ELECTION RECORDS
Ti'níłtji Naaltsos Bee Sinilłgłł

ELECTION SUPPLIES
Ti'níłtji Bee Nida'doonishłgłł

ELECTOR
Aná'a'a'ii

EMBLEMS
Éé'élyaa Bee Éé'hózinii

EMERGENCY PAPER BALLOTS
Honeczt'ahgo Naaltsos Bee E'et'ádıgłł

ENFORCEMENT POWERS
Óhółniłh Bik'eh Áhodoonilłti

ENUMERATION DISTRICTS
1. Diné Anéelt'e' Binahjı' Hahoodzo
2. Diné Adanéelt'e'gi Bit Hahoodzo

ERROR
Oodzil'

EXPENDITURE STATEMENT
Béeso Nidaneczdee'góó Naaltsos Bee Yah Anáhánilłgłł

FAIL SAFE
1. Doo Noot'ááh At'éeda
2. Dinóotı'ah Bits'ęę

FALSE SWEARING
Yooch'iidgo Ádeeha'doodzi'

FALSE VOTING
Yooch'iidgo A'ji'ah

FAX

1. Béesh Lichi'ii Bee Naaltsos Bi'iilnfh
2. Béesh Lichi'ii Binlkáágóne Naaltsos Bit Áda'alne'

FEEs
Bik'é Siláii

FELONY
Nitsaago Ádihozhdilit'

FILL IN CIRCLE
Ná'asdzó Biyi' Yiishfh

FIRE DISTRICT
Kq' Niltseés Bit Hahoodzo

FLAG
Dah Naat'a'i

FORGERY
Yizhi Nit'ijh

FRAUD
Na'adlo' Nahaaldeet

GENERAL ELECTION
Nitsaago Iná'ii'nii

GENERAL PURPOSE POLITICAL COMMITTEE
T'ááháájida T'diyoo'nigo Bee Álkéé'ni'dooidah

GOVERN
Hoot'áát

GOVERNMENT
Wáashindoon Si'á

GREEN PARTY
Aheelt'éego Nahat'á Bee Dah Ooldahji

GROSS RECEIPT TAXES
Na'iiznií'ji Ináolta'í Ahneidzogo

GUBERNATORIAL
Nitsaa Hahoodzo Bá Dah Adínóodaají

HANDICAPPED ACCESSIBILITY
Bich'í Anáhóót'íi Bá Yah'ahóót'í

HANDICAPPED VOTER
1. Aná'a'a'ii Bich'í Anáhóót'í'ígíí
2. Aná'a'a'ii Bii Nahont'áaigíí

H.A.V.A.
Wáashindoon Kóéhat'íinii E'et'áádji Bee Áká E'eyeed Beechaz'áanii

HEARING
Nabik'í Yáti' Bá Hoo'a'

IDENTIFICATION CARD
Naaltsos Bee Hwééhózingíí

ILLITERATE VOTER
Aná'a'a'ii Doo Óta'ígíí

IMPACT AID REVENUE BOND
Wáashindoondéé' Béeso Bee Áká'aná'alwo'ígíí Ba'hódlfigo Bee Nidoonish
Biniyé Béeso Wókeed

1. **IMPACT AID FUND**
Wáashindoondéé' Bikági Yishtliziíi Ba'áichíni Da'óta'íi Bá Béeso
Ninádt'áhíí

2. **REVENUE BOND**
Béeso Naalchi' Bee Béeso Wókeed

IMPERSONATION

Na'adlo' Bee Náánáa' Diné Bi'tz'ólzin

IMPOUNDING BALLOTS

Naaltsoos Ahcesniléé Yiltsood

INACTIVE LISTING

Anída'a'a'ii Doo Hózhó Bédahózinigíí

INALIENABLE RIGHTS

Doo Áts'áólnígóó Ídadéé't'ígíí

INAUGURATION

1. Naaf'áanii Ya Didiilnifigo
2. Naaf'áanii Ya Dadiiilnifigo
3. Ya'diinfih

INDEPENDENT

A'fəq Nahat'ah Bee Dahda'ineeh Doo Átidéélt'ígíí

INDEPENDENT CANDIDATE

Náánáa' Yee Adójiigo Naaf'áanii Yá' Yilwohígíí

INDEPENDENT PARTY (IBS)

Náánáa' Yee Adadójiigo Dah Deikáahígíí

INDIGENT PERSON

Baa Hojoobá'ii

INITIATIVE

Bee Haz'áanii Dooleelgo Bohodeest'á

IN-LIEU OF

1. Bitsésk'ehgi éí
2. Doodago éí

INSANITY

Bini' Bəqah Dahaz'áanii

INSPECTION

Haalzifid

INSPECTION OF VOTING DEVICE

Bee Ti'nfiftigi Haalzifid

INSTRUCTION

Bina'niifin

INSTRUMENTS

Chodawol'ini

INTERACT

Ahit Nidajinish

INTERFACE

Bee Ah'iildéeh

INTERNET

Béesh Lich'ni Bee Eéhozimigi

INTERVENE

Aa'afighsáah

INTERVENTION

Afa'na'adé

INTERVIEW

Na'idikid

INTIMIDATION OF VOTERS

Ida'niifiti-Bil Yé'áholza

INVESTIGATION

Naalkaah

JOINT TECHNOLOGICAL DISTRICT (NAVIT, NATIVE, CAVIAT)

Da'olta'góó Alhii'ji Naanish Al'aa'aat'eeBóhoo'aah Bif

Haahoodzo

JOINT TECHNOLOGICAL BOARD

Aihii'ji' Naanish Bóhoo'aah Bit Hahoodzo Yá Dahnídinibjígíí

JUDICIAL PAMPHLETS

Nidahwii'aahii Deifjeehígíí Naaltsoos Bikáá' Baa Hane'ígíí

JUDGE

Á Nihwii'aahii

JUDGES

Á Nidahwii'aahii

JUDGES - COURT OF APPEALS

Á Nihoo'q Baa Náhwíinít'íhji Nidahwii'aahii

JUDGMENT

Bee Nihoo'áanii

JUDICIAL

Aadahwíinít'í Bit Haz'áaji

JUDICIAL DISTRICT

Aadahwíinít'í Bit Hahoodzo

JURISDICTION

Óhóiníh Bideét'íi

JUROR

Atah Ánihodoo'áanii

JURY

Ánidahodoo'áanii

JUSTICE OF THE PEACE DISTRICT

Ayeii Nihwii'aah Bit Hahoodzo

KID'S VOTING

Átchíni I'ii'níí Bá Néft'aahígíí

MAY
Bee Lą

MEASURES (Proposition)
Bee Haz'áanii Dadooleechii

MEMBER OF THE MERCHANT MARINE
Diné Táákaa'ji Binaanishii

MESSENGERS
Nidaal'a'i

MILL LEVY (1/10 of 1 Cent)
T'ááka'i Sindao Neeznáággóó Alts'ánaádzoof, T'ááka'i Haadzo Biighahgo Wókeed

MINOR POLITICAL PARTY
Álts'isigo Nahat'á Bee Dah Da'ildééh

MONTH
Yizhiigi

MOTOR VOTER DRIVER LICENSE VOTER REGISTRATION
T'ááka'iji' Bik'eh Na'abaasi Dóó Aná'áts'a' Biniyé Hadá'dilne'

M.O.U.
1. Naaltsos Bik'ehgo Afha'deet'áanii
2. Naaltsos Binahji' Ahi' K'i'diitijh

MUNICIPAL COURT JUDGE
Kin Dahnaazhjaa'ji Nihwii'aahee

MUNICIPAL ELECTIONS
T'óóji Kindahnaazhjaa' Biwááshindoonji Aná'ii'niit

NAME
Yizhi

NAVAJO NATION GOVERNMENT
Diné Biwááshindoon

NAVAJO OUTREACH WORKERS
T'áá Diné Tii'níítjii Nidaalmishígíí

NEW RESIDENCE
Lahgo Ninááji'náago

NOMINATION
1. Há'adi'yoo'nít Biniyé Hak'ihodiinii'
2. Ak'ihodiinííh

NOMINATION PETITION
Á Idi'yoo'niigo Naaltsoos Yizhi Bee Álah'álméhgíí

NON PARTISAN
Nahar'á Bee Dah Ooldah Baa Ádinígíí

OATH (S)
Ya'di'diinííhgo Ádeeha'didziíh

OBSERVERS
Hada'asidi

OCCUPATION
Naanish

OPTICAL SCAN
Béesh Lich'ií Haniitchee Óta'ígíí

OFFICIAL RETURNS
Ida'iis'níí Ahtso Ahínídeíilta'go Bik'iní'it'áanii

OVERRIDE
Binéidoodzohgo Wókeed

OVERSEAS VOTER
Tówónanídéé' Aná'á'a'ii

OVER VOTED
 Biláago O'oot'ah

PARTY PREFERENCE
 Nahatá Bee Ajitahjí

PENALTY
 Nályctéh

PERCENTAGE
 T'ááha' Béeso Bee Ólta'go Ahhándaasdzó
 100% T'ááá' Béeso Bliighahgo
 75% Hastáá Yáál Bliighahgo
 50% D'í Yáál, Doodaai' Ahní'dóó Bliighahgo
 25% Naaki Yáál Bliighahgo
 100 T'áááhídi Neeznááin

PERMANENT FUNDS
 Náásóó Béeso Chodao'íigo Sinilígí

PERSON AUTHORIZED TO ADMINISTER OATHS
 Ya'di'doohingo Bəh Niilyáhígí

PETITIONS
 Naaltsóos Yizhí Bee Áhah'álnéhígí

PLACE OF BIRTH
 Ho'dizhchígí

POLITICAL COMMITTEE
 Nahatá Bee Dah Ooldah Bá Bits'áná'níligí

POLITICAL PARTY
 Nahatá Bee Dahooldah

POLL WATCHER (NM)
 Pí'níftí Ha'astí

POLLING PLACE
 Pí'níftí Bít Haz'ánígí

POLLING PLACE AGREEMENT
I' diyoo'nitgi Bee Aha'dceet'á

POLL LIST
Ada'iinifitii Bizhi' Naaltsos Bikáá' Ádaalne'igif

POLL WORKERS TRAINING
Ii'nitigi Ninádaalnishigfi Nanitin

POST ELECTION
Iiis'nit Dóó Bik'ijj

POSTED
Bee Dah Astsooz

POSTING
Bee Dah Altsóós

POLL WORKERS (AZ)
POLL OFFICIALS (NM,UT)
Ii'nitigi Ninádaalnishigfi

POLL INSPECTORS (AZ)
PRESIDING JUDGE (NM,UT)
I'ii'nitigi Bóhóinifigfi

POLL JUDGES
Naaltsos Bee I'ii'nifitii Yaa'áhalyánigif

POLL CLERK
Ii'nitigi Naaltsos Hadeiidile'igif

POLL MARSHAL
Ii'nitigi Siláoshchín

POLL MONITOR
Ii'nitigi Diné Yah'ahikááh dóó Ch'ééhékáhigfi Haisidí

POLL INTERPRETER (S)

1. I'ii'niiłgi Ata' Halne'e
2. I'ii'niiłgi Ata' Dahalne'e

PRECINCT

I'ii'niił Bił Hahoodzo

PRECINCT BOARD

I'ii'niił Yá Dah Naháaztánigí

MEMORY CARD

I'ii'niił Bił Hahoodzojí Béeš Lich'ii Bee Bik'i Nii'niiłgí

PRECINCT REGISTER

Anída'ii'niiłgi Naaltsos Yizhi Bee Si'ánigí

PRECINCT VOTER LIST

Anída'ii'niiłgi Naaltsos Yizhi Bee Si'ánigí

PREMIUM POLL WORKERS TRAINING

1. I'ii'niiłgi Ni'doonish Biniyé Naaltsos Bee Ééshózinii Yidoobijjii Binaaniltin
2. I'ii'niił Bina'anish Biniyé Naaltsos Dahyiltos Bina'niltin

PRESIDENTIAL ELECTORS

Wáashindoon Alááji Dah dínó daahii Yá'anída'ii'niiłgí

PRESIDENTIAL PREFERENCE ELECTION

Wáashindoon Alááji Dahdínoodaai Yiniyé Baa Hodzódliigo Nídidoolwołgí
Bikéé Ni'doodah Biniyé I'ii'niił

PRIMARY ELECTION

Baah Hanildéeh Biniyé I'ii'niił

PROBATE JUDGE

Inchó'ó Baah Ádahasdjidii Ahs'á Daadzojí Nihwii'aahii

PROCLAMATION

Áhodoonfíhii Bee Nihoot'a

PROPOSED

1. Dooleeigo Wókeed
2. Dooleel Ha'ni

PROPOSED INCREASE

Ła' Binéidoodzo Ha'ni

PROPOSITION

Bee Haz'áanii Ádoolnif

PROVISIONAL BALLOT ENVELOPE

Íjigo Daats'i Toot'ah Biíhe'níígi

PUBLICATION

Naaltsos Bee Haníídee'

PUBLICITY PAMPHLETS

Íi'nííji Naaltsos Bee Éédahózingí

PUBLIC SCHOOL

Nitsaa Hahoodzo Bi'olta'

PURGE

Íi'nííji Yizhi Hááhádzóóh

QUALIFIED ELECTOR

Íjigo Tdoo'añi

REAPPORTIONMENT

Neeznáá Nináhago Diné Nídawóltah Bik'ehgo Naat'áanii Aheelt'éego Nahaa'nii

RECALL DECISION

Bee Haz'áanii Bik'ásá Háádoot'ih Biniyé Íi'níí

RECALL ELECTION

Baani Holóogo Aná'i'níí

RECORDER'S CERTIFICATE

Naaltsos Íjigo Binahji Tdoot'añgí

SECONDARY PROPERTY TAX
Eehólonii Bits'áádóó Ináolta'i Náhádláahígíí

SHALL
Ts'ídá Ádoonfi

SIGNATURE REQUIREMENTS
Yizhi Ánéelte' Binahjii' Nidi'doolwohígíí

SIGNATURE ROSTER
Fii'nifigo Naaltsos Bikáá' Yizhi Dadilt'i'ígíí

SOCIAL SECURITY NUMBER
Naaltsos Bik'é Na'anishí

SPECIAL DISTRICT BOUNDARIES (AZ)
T'áásahdii Át'éego Nidahasdzo

SPECIAL TAXING DISTRICT
T'áásahdii Át'éego Ináolta'i Nidandech Bit Hahoodzo

SPECIAL PURPOSE POLITICAL COMMITTEE
T'áááhjii Tdi'yoonitgo Bee Arkéé'ni'dooldah Biniyé Bits'aná'nílii

SPOILED BALLOT
Naaltsos Bee Foot'ah Yichxó'ígíí

SPOILED BALLOTS
Naaltsos Bee Fii'nifí Dááchxó'ígíí

STATE CAPITAL
Nitsaa Hahoodzo Biwááshindoon Bit Haz'á

STATE CONSTITUTIONAL AMENDMENT
Nitsaa Hahoodzooji Bee Haz'aanii Bitsé Siláí Nák'aas

STATE DEMOCRAT PARTY CHAIRMAN
Nitsaa Hahoodzooji Dzaanééz Nahat'á Bee Dah'ooldah Yá Dahsidáhígíí

STATE ELECTION OFFICER
Nitsaa Hahoodzoi Fii'nifit Yá Dah Sidáhííí

STATE GOVERNMENT
Nitsaa Hahoodzo Biwááshindoon

STATE LEGISLATORS
Nitsaa Hahoodzo Adeí Dóó Ayeí Hooghanjí Naat'áanii Danilínííí

STATE REPUBLICAN PARTY CHAIRMAN
Nitsaa Hahoodzoi Chííh Yee Adilohii Nahat'á Bee Dah'ooldah Yá Dasidáhííí

STATISTICAL DATA
Ázhnéelt'e'ígíí B'ééhózingo Naaltsoos Bee Si'ánííí

STUB
Naaltsoos Bee Fii'nifit Bidoodózííí

SUCCEEDING
T'áá Náás

SUPERIOR COURT
Adeíí Aahwíínt'í

SUPERVISORIAL DISTRICTS (AZ)
COMMISSION DISTRICTS (NM)
Áts'isi Hahoodzo Biyi' Naat'áanii Bii Hadahwiisdzoh

SUPREME COURT
Alátahdi Nitsaago Aahwíínt'í Bii Haz'á

TALLY BOARD
Ida'iis'nii Wólta'jí Yá Dahnídiniibjijííí

TAMPERING WITH VOTING MACHINES
Fii'nifíí Choo'iniíí Bee F'doodlohgo Naagiz

TERM
Ánízahjíí

TERM OF OFFICE
Anízhají' Naat'áanii Ídlí

THREATS
Hycé' Ahólzín

TIE VOTE
Tíisníl Yéé Ahcelyaago T'áadoo Honeeznáa Da

TOUCH SCREEN
Bee T'ii'níhígíí Hahalkeedgo Bit Ada'dichidígíí

TRANSLATE
Nááná Ła' Saad Bee Ata' Hanc'

TRANSLATING
Diné'k'ehjí Saad Bee Bina'anish

TRANSLATION
Diné Bizaad K'ehgo Saad AnááIníí

TRANSLATOR
Nááná Łahjí' Saad Yee Hááda'didle'ígíí

TREASON
Hakéyah Bi Beechaz'áanii Bik'íjí' Níjiiyá

UNIFORMED OVERSEAS VOTER
Tó Wónanídéé Siláótsóoi Anida'a'a'ígíí

UNIFORMED SERVICES
Siláótsóof

UNITED STATES CAPITAL
Ashdladiin Nitsaa Hahoodzo Bi Wááshindoon Bit Haz'á

UNITED STATES DEPARTMENT OF JUSTICE
Wááshindoondi Nitsaago Ídadéet'íí Bik'Tadéest'íí'go Bit Hazh'áájí

UNOFFICIAL RETURNS

1. Fii's'nil T'áá Yah'ahindééhgóó Baa Hane'ii
2. Fii's'nil T'ahdoó Íligo Bik'ini't'raahígíí

VERIFICATION

1. Doo Laanaagóó Bée'hózinígíí
2. Bée'hóziní
3. Bee Éé'hózinígíí

VOLUNTEER

T'óó Aká'ajilyeed

VOTER MAINTENANCE LIST

Naaltsoos Yizhí Bee Álkéé'yi'nitgo Bina'anishígíí

VOTE AGAINST

Bits'ajji E'et'áád

VOTE FOR

Bich'ijí E'et'áád

VOTING MACHINE TECHNICIAN

Bee Fii'nitígíí Yinaalnishii

VOTER DATA

Báhada'dilyaaí Naaltsoos Bee Si'q

VOTING DEVICE

Fii'níftí Bee Bina'anishígíí

VOTERS FILE

Báhada'dilyaaí Naaltsoos Bee Álkéé' Sinilígíí

VOTER RECEIPT

Naaltsoos Áhadilyaa Bée'ályaalgíí

VOTER REGISTRATION

Fii'níftí Biniyé Á Hada'dilne'

VOTER REGISTRATION DEADLINE
Ii'niitji Naaltsos Hadadilne'igfi Atch'q' Análnééh

WEBSITE
Béésh Éich'Iii Biyi'dóó I Nahaz'q' Baahane'

WHITE HOUSE
Kinábálgai

WITHDRAWAL OF CANDIDATES
1. Bá I'di'yoo'niłę Bi Naaltsos T'áá' Hááyíitsooz
2. Yilwołigíí Naaltsos T'áá' Hááyíitsooz

WRITE IN CANDIDATE
Yizhi T'éi Álnééhji Atahyilwołigíí

WRITE IN CANDIDATES
Yizhi T'éi Álnééhji Atahdeitjcehígíí

WRIT OF MANDAMUS
Bee Haz'áanii Bizht'ooliigo Bee Há Nihoot'q'

YEAR
Yihahígíí

ZERO REPORT
I'ii'niit T'áábítséedi Biyi' I'ii'niit doo Ła'I'oot'ahgóó Naaltsos Bikáá'go
Hayl'ahígíí

COUNTIES
Áłts'ísi Hadahwiisdzo

APACHE COUNTY
1. Tsezhin Deez'áhi Bił Hahoodzo
2. Dziłghá'í Bee Wójjigo Hahoodzo

CIBOLA COUNTY
Naatoohi Bił Hahoodzo

McKINLEY COUNTY
Na'nizhoozhi Bił Hahoodzo

SANDOVAL COUNTY
Mą'íi Deeshgiizh Bił Hahoodzo

SAN JUAN COUNTY-NEW MEXICO
Kiniteel Bił Hahoodzo

SAN JUAN COUNTY- UTAH
Dziłdit'íi Bił Hahoodzo

BERNALILLO COUNTY
Be'eldíłi Dahsinil Bił
Hahoodzo

COCONINO COUNTY
Góóhniini Bił Hahoodzo

NAVAJO COUNTY
1. Diné Bee Wójjigo
Hahoodzo
2. T'íis Yaa Kin Bił
Hahoodzo

SOCORRO COUNTY
1. T'ístsoh Sikaad Bił
Hahoodzo
2. Sighóla Bił Hahoodzo

STATES
Nitsaa Hadahwiisdzo

ARIZONA
Hoozdo Hahoodzo

NEW MEXICO
Yootó Hahoodzo

COLORADO
Dibé Nitsaa Hahoodzo

UTAH
1. Soolééh Hahoodzo
2. Áshijh Bił'tóóji
Hahoodzo

COUNTY SEATS
Ałts'łsi Hadahwiłsdzo Biwááshindoon Bił Nahaz'á

AZTEC, NEW MEXICO
Kiniteel

FLAGSTAFF, ARIZONA
Kinłáni

GALLUP, NEW MEXICO
Na'nizhoozhi

HOLBROOK, ARIZONA
T'is Yaa Kin

MONTICELLO, UTAH
Maadíséloo

ST. JOHNS, ARIZONA
Tsézhin Deez'áhi

DAYS OF THE WEEK
Tsoos'id Ji Dawójinígíí

SUNDAY
Damóo

MONDAY
Damóo Biiskáni

TUESDAY
Damóo Dóó Naakijj

WEDNESDAY
Damóo Dóó Tagtjj

THURSDAY
Damóo Doo D'f'jj

FRIDAY
Nida'iiníish

SATURDAY
Damóoyazhi

MONTHS
Náhidizífd

JANUARY
Yas Nilt'ees

FEBRUARY
Atsá Biyáázh

MARCH
Wóózhch'ífd

APRIL
T'ááchil

MAY
T'áátsch

JUNE
Ya'iishjááshchilí

JULY
Ya'iishjááshchilí

AUGUST
Bini'anit'ááts'ósi

SEPTEMBER
Bini'anit'áátsch

OCTOBER
Ghaájj'

NOVEMBER
Nitch'its'ósi

DECEMBER
Nitch'itsch

SEASONS
A'áá Anáhooníit

SPRING
Dáan

FALL
Aak'ee

SUMMER
Shj

WINTER
Hai

PLACES

Alamo
 Albuquerque
 Aneth
 Baca
 Becenti
 Beclabito
 Birdsprings
 Black Mesa
 Bodaway/Gap
 Breadsprings
 Burnham
 Cameron
 Canoncito
 Casamero Lake
 Chichiltah
 Chilchinbeto
 Chinle
 Churchrock
 Coalmine Mesa
 Coppermine
 Cornfields
 Counselor
 Cove
 Coyote Canyon
 Crownpoint
 Crystal
 Cucuñi
 Dalton Pass
 Dennehotso
 Dilkon
 Forest Lake
 Fort Defiance
 Fruitland
 Ganado
 Gray Mountain
 Hard Rock
 Hogback
 Houck

ADAHOOLYÉHÍGÍÍ

Tiistso Sikaad
 Be'aldííł Dahsinil
 Táábíjch'íídií
 Kinlígaał
 T'óóditšin
 Bit'áábító'
 Tsídiito'
 Dził Yíjín
 Tsinaagaaž Habitim
 Bááhaali
 Tiistsoh Sikaad
 Na'n'á
 Tóhájíleché
 Tsetah Tó'ak'oil
 Tsé Ch'iltah
 Chiitchinbil'tó
 Ch'míł
 Kinítso Sinilí
 Leejin Haagééd
 Béesh Haagééd
 K'iitsoitah
 Bilagháanas'nééz
 K'aabizhí
 Ma'it'éehyítizhí
 Tiistso'óž Nideeshgiizh
 Tónits'íł
 Gad'í'áń
 Nahodeeshgiish
 Denihootso
 Tsee'náákézi / Tó'áich'ídi
 Tsiy'be'ak'id
 Tséhootsoo'
 Bááh Dind/ Doo Alk'ai
 Lók'aahniteel
 Dziłbéeł
 Tséjido'ń
 Tsétaaka
 Ma'itoo'
 Ma'itoo'

Huerfano	Dzihná'oodihí / Hanáádí
Indian Wells	Tóhahadleech
Inscription House	Ts'ah Bii'kin
Iyanbito	Ayání Bito'
Jeddito	Jáditó
Kaibeto	K'a'ibii'tó
Kayenta	Tóchinéahzhee'
Kinlichee	Kindahlich'í / Kinlich'í
Klagetoh	Leeyító
Lake Valley	Be'ak'id Halgaas
Lechee	Lichfí'í
Leupp	Ts'izizii / Tooh
Littlewater	Tó'áts'ísi
Lower Greasewood	Dówózhii Bii'tó
Low Mountain	Jeesáá' Deez'á / Jech Deez'á
Lukachukai	Lók'aa'ch'égai
Lupton	Tsési'áni
Manuelito	Kin Nizhóni
Many Farms	Dá'ák'ebaláni
Mariano Lake	Be'ak'id Hóteeli
Mexican Springs	Naakai Bito'í
Mexican Water	Naakaitó
Nahata Dził	Nahat'á Dził
Nageesi	Naayizi
Naschitti	Nahashch'idí
Navajo Mountain	Naatsis'áan
Nazlini	Názíni
Nenahnezad	Niinahnizaad
Newcomb	Bis Doot'izh Deez'áhi
Oak Springs	Teelch'iní'
Ojo Encino	Tséch'izhí Bii'tó
Oljato	Ooljéé'tó
Pinedale	Tóbéehwísganí
Pinon	Be'ak'id Ba'a'hoodzáni
Pueblo Pintado	Kiniteel
Ramah	T'ohchini
Red Lake	Be'ak'id Halchif'
Red Mesa	Tsélichif' Dah'azkání
Red Rock	Tsélichif'
Red Valley	Tsélichii' Dah'azkání

Rock Point	Tsé Nitsaa Deez'áhi
Rock Springs	Tséch'izhi
Rough Rock	Tséch'izhi
Round Rock	Tsénkání
San Juan	Kinichif'
Sanostee	Tsé'almáoz't'i
Sawmill	Ni'ijihásání
Sheepsprings	Dibé Bito'
Shiprock	Naat'áaniinééz
Shonto	Sháá'tóhi
Smith Lake	Be'ak'eh Halgai
Standing Rock	Tsé í'áhi
Steamboat	Hóyéé' / Tsinaa'eeł Dahsi'áni
St. Michaels	Ch'hootsoh
Sweetwater	Tó Likan
Tachee / Blue Gap	Táchi'
Teece Nos Pos	Tiis Náaz Bas
Tecsto	Ni'weetin
Thoreau	Dl'ó'áyázhí
Tohajilee	Tóhajiileeh
Tohatchi	Tóhaach'i'
Tolani Lake	Tóáni
Tonalea	Toneheljfh
Torreón	Ya'niilzhin / Na'neelzhin
Tsaile / Wheatfields	Tódzis'á
Tsayatoh	Tséyaató
Tselani / Cottonwood	Tsé Láni / Tséhgai Deez'áhi
Tuba City	Tónanéésdzí
Twin Lakes	Tsénahadzoh
Two Grey Hills	Bis Dahitso
Whippoorwill	Hooshdódiitó
Whitecone	Beak'id Baa'a'hoogeed
Whitehorse Lake	Lj'igai Bito'
Whiterock	Tsé Ligai
Wide Ruins	Kin Nitcel
Window Rock	Tséghahoodzání / Tsébigahoodzání

ACKNOWLEDGEMENT

This glossary is a work in process. Its production is the result of the concerted efforts, deep concerns and devoted attention of many, many people. Unfortunately, at this point in time, a truly comprehensive or fully accurate acknowledgement is not possible. It is the hope that all involved with this vital and evolving effort appreciate the importance and magnitude of this document. The improvement of knowledge regarding the voting rights of Navajo language speaking citizens will provide a lasting and true acknowledgement to all who worked to make this glossary possible.

Finally, no acknowledgement for the work on this project would be just or complete without a special mention of the contributions of Mr. Harold Noble. His work on this project, spanning aspects from actual translation work to recruiting translators to coordinating the efforts of contributors, has been a driving force in bringing this document to its current high quality and wide acceptance. This would have been a much lesser document, but for his leadership and wisdom.

CH'INÍÍ ÓLTA' BIL HAHOODZOJÍ

Ólta' Binant'a'í Á Dahndinibijhígíí

Táá Bá E'et'áád

BROWN, JR. VIRGIL
 MATHIS, JULIA M.
 ZAMUDIO, ERNESTO
 IBARRA, JACQUELINE
 MAHNKE, SR., STEPHEN A.
 TSINJINNIE, EARLSEN

Ch'iníí Ólta'íí Naanish A'as'áát'eeł Bóhoo'ash Bii Hahoodzo Á Dahndinibijhígíí

TSOSIE, ERNEST K.

T'ááá'í Bá E'et'áád

LÓK'AAHNITEEL ÓLTA' BIL HAHOODZOJÍ

Ólta' Binant'a'í Á Dahndinibijhígíí

Naaki Bá E'et'áád

CADMAN, EDWARD C.
 BLACKSHEEP, JR. ALLAN
 YELLOWHAIR, BESSIE
 SHIRLEY, LANORA

Lók'ashniteel Ólta'íí Naanish A'as'áát'eeł Bóhoo'ash Bii Hahoodzo Á Dahndinibijhígíí

Doo Ła'Yilwołdah

T'ááá'í Bá E'et'áád

Ólta' Binant'a'í Á Dahndinibijhígíí

Naaki Naahaij'í Dah Asdahígíí

T'ááá'í Bá E'et'áád

Doo Ła'Yilwołdah

TSÉLICHÍÍ DAH'AZKÁNÍ ÓLTA' BIL HAHOODZOJÍ

Tsetichíí' Dah'azkání Ólta' Binant'a'í Á Dahndinibijhígíí

Táá Bá E'et'áád

TUTT, LEWIS E.
 TOMCHEE, MARIE C.
 PAUL-STILLMAN, JACQUELINE
 ROESSEL, RUTH
 SAGG, CLIFFORD LAMEMAN

Tséé'ichíí' Dah'azkíní Ólta'ííí Naanish Á'as'áá'í' eel' Bóhoo'sah Bii Hahoodzo Á
Dahn'dinibííhígíí T'áá'á'í' Bá E'er'áád

Doo La' Yilwo'dah

Tséé'ichíí' Dah'azkíní Ólta' Binant'a'í' Á Dahn'dinibííhígíí
Naaki Naahaij'í' Dah Asdáhígíí T'áá'á'í' Bá E'er'áád

Doo La' Yilwo'dah

LICHÍÍ' DEEZ'ÁHI ÓLTA' BIL HAHOODZOJÍ

Lichíí' Deez'áhi Ólta' Binant'a'í' Á Dahn'dinibííhígíí Naaki Bá E'er'áád

GOODLUCK, ARNOLD
TSOSIE, WOODY BENJAMIN

Lichíí' Deez'áhi Ólta'ííí Naanish Á'as'áá'í' eel' Bóhoo'sah Bii Hahoodzo Á Dahn'dinibííhígíí
T'áá'á'í' Bá E'er'áád

YAZZIE, MARGARET R.

TSÉGHÁHOODZANI ÓLTA' BIL HAHOODZOJÍ

Tségháhoodzani Ólta' Binant'a'í' Á Dahn'dinibííhígíí T'áá' Bá E'er'áád

NELSON, LORRAINE W.
ANDERSON, LARRY
DAVIS, VIRGIL L.
HARDY, JOYCE BROWER
WHITE, PAULETTA

Tségháhoodzani Ólta' Bii Hahoodzojii

NA'ÍDÍKID:

Bini'dii daats'í' Tségháhoodzani Ólta' Bii Hahoodzojii Ólta' Binant'a'í' díí T'áá'di miil nitsaalgíí
dóó bi'áan Ashdladi miil áits'ístigíí (\$3,500,000) béeso wókeedígíí bee ba'didoot'ááigo Béeso
Nitsaago Bee Ni'doonish biniyé béeso nalchi'ígíí biniyé i'di'yoonií?

Bee Ni'doonish biniyé béeso wókeedígíí Aoo daats'í'?

Bee Ni'doonish biniyé béeso wókeedígíí Doo Da daats'í'?

SPECIAL ELECTION
MAY 17, 2005
WINDOW ROCK UNIFIED SCHOOL DISTRICT No.8
APACHE COUNTY, ARIZONA

NA'IDIKID LAA'II

Bini'dii daats'i Tsegháhoodzáni Ólta' Bii Hahoodzoji Ólta' Binant'a'i Á Dahnidiniibijihigíí bee ba'deet'aahgo ólta'iji béeso bee oonishigíí díí 2005 dóó 2006 yihah bii' ólta' yá béeso shónááyooot'e'eh éí Hoozdo Hahoodzodé'go béeso ninádit'ááhigíí t'ááh'íidí míll nitsaaigíí dóó bi'áan díí'di neeznádiin dóó bi'áan tsosts'idiin dóó bi'áan táá'di míll áts'isigíí dóó bi'áan naaki di neeznádiin dóó bi'áan tádiin tsosts'id (\$1,473,237) béeso bá binéidzóóh? Díí béeso bá binéidzooigíí ólta'iji bá bee shóót'i'igíí binahjí' nináháhahgo neeznáá doot'izh (10%) bíghahgo binéidzodoo.

Díí i'isnilgo áádóó bee ba'deet'áago béeso ólta'iji bá binéidzogo díí béeso bíká chohoo'ínigíí éí eehólooni bits'áádóó ináolta'i náhádlááhigíí ólta'iji bá shóót'e'eh áádóó béeso shóózt'e'igíí éí hastáá nááhaigóó choo'íídoe inda Hoozdo Hahoodzoji doo bits'áádé' béeso wókeed da. 2011 - 2012 yihah dóó 2012 - 2013 yihah bii' béeso ía' bá binéidzooigíí éí hastáá'íichíí' dóó bi'áan íichíí' táá'góó áts'áádzoogíí naaki bíghahgo (6 2/3 %), áádóó táá' íichíí' dóó bi'áan íichíí' táá'góó áts'áádzoogíí t'ááh'íí (3 1/3%), alkéé simlgo, Hoozdo Hahoodzo Bibechez'áanii (section 15-481.p) yisdzohígíí binahjí' díí ólta'ji béeso bá binéidzodo díí deihááh góné' bee ba deet'ánigíí.

Béeso ía' binéidzóóh haninigíí doo bee bá lá' azlí'góó éí bee haz'áanii bik'ehgo béeso bá nideet'ánéé éí ólta' binant'a'i shóyooot'e'ehdoo.

Béeso Bá Binéidzóóh Aoo' _____

Béeso Bá Binéidzóóh Doo da _____

NA'IDIKID NAAKI

Bini'dii daats'i Tsegháhoodzáni Ólta' Bii Hahoodzoji Ólta' Binant'a'i Á Dahnidiniibijihigíí bee ba'deet'aahgo áhchíni hada'íitááhigíí dóó táá' yóta'iji' béeso yá shóyooot'e'ehdoe díí 2005 dóó 2006 yihah bii', Hoozdo Hahoodzodé'go béeso bá ninádit'ááhigíí ashla'di neeznádiin dóó bi'áan díí' tsáadadi míll áts'isigíí dóó bi'áan tseebíidi neeznádiin dóó bi'áan náhástéí tsáada (\$514,819) béeso bá binéidzóóh? Díí béeso bá binéidzooigíí ólta'iji bá bee shóót'i'igíí binahjí' nináháhahgo ashla' doot'izh (5%) bíghahgo binéidzodoo.

Díí i'isnilgo áádóó bee ba'deet'áago ólta'iji béeso bá binéidzogo díí béeso bíká chohoo'ínigíí éí eehólooni bits'áádóó ináolta'i náhádlááhigíí ólta'ji bá shóót'e'eh áádóó béeso shóózt'e'igíí éí hastáá nááhaigóó choo'íídoe inda Hoozdo Hahoodzoji doo bits'áádé' béeso wókeed da. 2011 - 2012 yihah dóó 2012 - 2013 yihah bii' béeso ía' bá binéidzooigíí éí hastáá'íichíí' dóó bi'áan íichíí' táá'góó áts'áádzoogíí naaki bíghahgo (6 2/3%), áádóó táá' íichíí' dóó bi'áan íichíí' táá'góó áts'áádzoogíí t'ááh'íí (3 1/3%), alkéé simlgo, Hoozdo Hahoodzo Bibechez'áanii (section 15-481.p) yisdzohígíí binahjí' ólta'ji béeso bá binéidzodo díí deihááh góné' bee ba deet'ánigíí.

Béeso ía' binéidzóóh haninigíí doo bee bá lá' azlí'góó éí bee haz'áanii bik'ehgo béeso bá nideet'ánéé ólta' binant'a'i shóyooot'e'ehdoo.

Béeso Bá Binéidzóóh Aoo' _____

Béeso Bá Binéidzóóh Doo da _____

SAMPLE BALLOT -OVERRIDE ELECTION

SPECIAL ELECTION

Window Rock Unified School District No. 8
Apache County, Arizona - May 17, 2005

The Governing Board and the Window Rock Unified School District #8 are requesting:

- Approval to exceed the 2005-06 Maintenance and Operations Budget in the amount of \$1,473,237, an amount not to exceed 10% (ten percent) of the Revenue Control Limit for the year for which adopted and for six (6) subsequent years.
- Approval to exceed the 2005-06 Maintenance and Operations Budget for Kindergarten through Third Grade in the amount of \$514,819, an amount not to exceed 5% (five percent) of the Revenue Control Limit for the year for which adopted and for six (6) subsequent years.

Any budget increase authorized by this election shall be entirely funded by this school district with revenues from other than levy of taxes on the taxable property within the school district for the year for which adopted, and for six (6) subsequent years and shall not be realized from monies furnished by the state. In fiscal years 2011-2012 and 2012-2013 the amount of the proposed increase will be six and two-thirds percent and three and one-third percent, respectively, of the District's revenue control limit in each of such years, as provided in Section 15-481(P) of the Arizona Revised Statutes.

If the proposed budget is disapproved, the alternate budget shall be adopted by the school district governing board.

The total amount of the 2004-05 adopted budgets for Maintenance and Operations is \$23,809,835, and for Kindergarten through Third Grade is \$495,526.00. The total amount of the proposed budget for Maintenance and Operations is projected to be \$20,523,492, and for Kindergarten through Third Grade is \$514,819. The total amount of the alternate budget for Maintenance and Operations is \$19,086,255, and for Kindergarten through Third Grade is \$0.

Based on the estimated Secondary Total Net Assessed Value of \$11,304,158, no owner-occupied residence (class 5) or business (class 3) will experience an increase in their tax bill.

A Message from the Apache County Elections Director:

As a result of Arizona voters passing Proposition 200, known as Identification at the Polls, it is now necessary to provide Identification at the Polls the next time you cast your vote. This means that you will be required to present proper ID at the polling place. The information included on the identification must reasonably appear to be the same as the information on the signature roster. The following types of identification will be accepted:

Acceptable forms of identification with photograph, name, and address of the elector

- Valid Arizona driver license
- Valid Arizona non-operating identification license
- Tribal enrollment card or other form of tribal identification
- Valid United States federal, state, or local government issued identification

An identification is "valid" unless it can be determined on its face that it has expired.

IT IS NOT MANDATORY TO OBTAIN A PHOTO ID. YOU MAY BRING ONE OF THE FOLLOWING FORMS OF ID:

Acceptable forms of identification without a photograph that bear the name and address of the elector (two required)

- Utility bill of the elector that is dated within ninety days of the date of the election. A utility bill may be for electric, gas, water, solid waste, sewer, telephone, cellular phone, or cable television
- Bank or credit union statement that is dated within ninety days of the date of the election
- Valid Arizona Vehicle Registration
- Indian census card
- Property tax statement of the elector's residence
- Tribal enrollment card or other form of tribal identification
- Vehicle insurance card
- Recorder's Certificate
- Valid United States federal, state, or local government issued identification, including a voter registration card issued by the county recorder

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**IF YOU DO NOT HAVE THE PROPER ID, YOU WILL BE ABLE TO VOTE A PROVISIONAL BALLOT.
ALL VOTERS WILL RECEIVE A BALLOT WHEN GOING TO THE POLLING PLACE.**

For questions call the Apache County Elections Director, Penny L. Pew at (800) 355-4368, ext. 7537 or (928) 337-7537 or send an email to ppew@co.apache.az.us or www.co.apache.az.us

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POLLS OPEN 6AM - 7 PM TUESDAY, NOV. 8, 2005

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POLLS OPEN 6AM - 7 PM TUESDAY, NOV. 8, 2005

Un Mensaje de la Directora de Elecciones del Condado Apache

Como consecuencia de la aprobación de la Proposición 200 por los votantes de Arizona, conocida como Identificación en los Centros Electorales, será necesario presentar identificación en los Centros Electorales la siguiente vez que se presente para votar. Esto significa que será necesario presentar identificación aceptable en el centro electoral. La información contenida en la identificación tiene que razonablemente ser igual a la información que aparece en el registro de firmas. Los siguientes tipos de identificación se aceptarán:

Prueba de identificación aceptable con una fotografía, nombre, y dirección particular del elector.

- Licencia de manejar de Arizona válida
- Licencia de identificación no de manejar de Arizona válida
- Tarjeta de inscripción tribal u otro tipo de identificación tribal
- Identificación suministrada por el gobierno de los Estados Unidos, federal, estatal o local válida

Una forma de identificación es "válida" a menos que se determine que la información se ha vencido.

NO ES OBLIGATORIO OBTENER IDENTIFICACIÓN CON UNA FOTOGRAFÍA. SE PERMITE PRESENTAR DOS DE LOS SIGUIENTES TIPOS DE IDENTIFICACIÓN:

Prueba de identificación sin una fotografía aceptable con el nombre, y dirección particular del elector (se requieren dos tipos)

- Cuenta de empresa pública del elector con un fecha dentro de noventa días de la fecha de la elección. La cuenta de empresa pública puede ser de electricidad, gas, agua, desperdicios sólidos, alcantarillado, teléfono, teléfono celular, o televisión por cable.
- Estado de cuenta del banco o cooperativa de crédito con un fecha dentro de noventa días de la fecha de la elección.
- Registro de Vehículo de Arizona Válido
- Tarjeta de censo de Indio
- Declaración de impuestos sobre la propiedad de la residencia del elector
- Tarjeta de matriculación tribal u otro tipo de identificación tribal
- Tarjeta de seguros de vehículo
- Certificado de la Registradora
- Identificación suministrada por el gobierno de los Estados Unidos, federal, estatal o local válida, incluyendo una tarjeta de votante inserta emitida por la registradora del condado.

Una forma de identificación es "válida" a menos que se determine que la información se ha vencido.

SI NO PRESENTA IDENTIFICACIÓN ACEPTABLE, SE LE PERMITIRÁ VOTAR UNA BOLETA PROVISIONAL. AL PRESENTARSE EN EL CENTRO ELECTORAL TODOS LOS VOTANTES RECIBIRÁN UNA BOLETA

Si tiene preguntas comuníquese con la Directora de Elecciones del Condado Apache, Penny L. Few al (800)355-4368, extensión 7537 o (928) 337-7537 o envíe un correo electrónico a ppew@co.apache.ar.us o www.co.apache.ar.us

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012144

What is the Presidential Preference Election?

When is the Presidential Preference Election?

A.R.S. § 16-241 (B)

Governor Napolitano issued a proclamation (order) that the 2004 Presidential Preference Election shall be held on February 3, 2004.

What Other Elections Will Appear On The Ballot In February?

A.R.S. § 16-241 (A)

No other election may appear on the same ballot as the Presidential Preference Election.

Will The Candidates Be Listed In Alphabetical Order?

A.R.S. § 16-245 (B)

The order of the names of certified candidates shall be determined by lots drawn at a public meeting called by the secretary of state for that purpose.

Rotation of candidate names is prohibited.

What Is The Presidential Preference Election?

A.R.S. § 16-243

All candidates for the Office of President of the U.S. will appear on the ballot in February. There will be separate ballots for each recognized political party.

The candidate who receives the greatest number of votes in the Presidential Preference Election will represent the party at the National Convention.

Will I Receive A Sample Ballot?

A.R.S. § 16-245 (D,E)

The officer in charge of elections shall mail one sample ballot to each party represented on the Presidential Preference Election ballot to each household that contains a registered voter of that political party.

The mailing face of each sample ballot shall be imprinted with the great seal of the State of Arizona with the words "official voting materials---presidential preference election."

Can I Vote?

You must be registered with one of the recognized political parties in Arizona who have a candidate on the ballot. Voters with no party preference will not be able to vote in this election.

Where Do I Go To Vote?

If you live on the Navajo Nation, you will vote where you usually vote in County and State elections.

If you live off-reservation, there will be consolidation of some polling places. Eagar & Round Valley will vote at the Round Valley Gymnasium. Springerville & Flat Top will vote at the Apache County Road Yard. St. Johns & Coronado will vote at the County Annex. All other polling places will remain the same.

A.R.S. § 16-246 Early Ballots

Beginning Nov. 6, 2003, you may request an Early Ballot be mailed to you for the Presidential Preference Election. Ballots will be mailed out on Jan. 19, 2004. Early Voting ends on Jan. 30, 2004.

To request an Early Ballot, call (800) 361-4402.

To vote in the Presidential Preference Election, you must be registered with the Political Party for whom you are casting a vote.

The deadline to register to vote in the Presidential Preference Election is Jan. 5, 2004.

IMPORTANT DATES

Election Date	Feb. 3, 2004
Voter Registration Deadline	Jan. 5, 2004
First Day to Request Early Ballot by Mail	Oct. 31, 2003
First Day Early Ballots will be mailed	Jan. 19, 2004
Early Voting Ends	Jan. 30, 2004

*Apache
County*

**Presidential
Preference
Election**

Informational
Guide

February 3, 2004

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Watch for the Newly Painted Voter Registration Trailer as it travels throughout Apache County...
...early voting!

For further questions,
call (1800) 361-4402 or (928) 337-7537
Or visit the website at:
www.co.apache.az.us

012145

Díí í'í' nít'ígíí atah í' deesh' al nít'íngó éí nahat'á bee dah' ooldahjí í' deesh' al nít'íngíí atah ná ha' dít' éego í' éíyá í' dít' al.

Díí í'í' nít'ígíí biniyé á hada' díne' ígíí Yas Nít' ees 5 yooíkááíjí', 2004 yihah bíí' alch' í' ánálnééh.

Í'í' nít'ígíí biniyé á hada' díne' áádóó bítséedi í'í' nít'ígíí biniyé akóó níhitahgóó bíí' nít'áhóót' aah dooleeí' ákóó biniyé nídaakai.

DÍÍ ALKÉÉ' HONÍ' ANÍGÍÍ BÉÉ
DAAĹNIIH

Díí í'í' nít'ígíí	Atsá Biiyáázh 3, 2004
Á hada' díne' alch' í' ánálnééh	Yas Nít' ees 5, 2004
.Bítseedi í'í' nít'ígíí bítá áda' áine'	Chaaíjí' 31, 2003
.Bítseedi í'í' nít'ígíí bahahzhííh	Yas Nít' ees 19, 2004
.Bítseedi í'í' nít'ígíí alch' í' ánálnééh	Yas Nít' ees 30, 2004

Díí baa hóóne' ígíí hazhó'ó bina' ídídééshkíí nít'íngó béésh bee hodíílníh, 1(800)361-4402, dooda léíí' (928)337-7537

Béésh kich'í'í' biiyí' d66 ééshózingíí éí,
www.co.apache.az.us

TSÉZHIN DEEZ' AHÍ BÍĹ HAHOODZOJÍ

WÁASHINDOON ALÁAJÍ' DAHDÍNÓODAAĹ
BINIYÉ BAA HODZÓDLÍGO
NÍDIDOOLWOĹÍGÍÍ BIKÉÉ' NÍ' DOOLDAH
BINIYÉ Í'Í' NÍĹ

ATSÁ BIIYÁÁZH 3 YOOLKÁĹĹ GÓNE', 2004
YIHAB BII'

DÍ NAALTSOOS BIIYÍ' HAZHÓ'Ó BAA HANE'

"T' ÁĹĹÁ'Í PÍĹ AHÍGÍÍ ÍĹ"

Dii shaq' ha'at'ii i'ii'nif shij'at'ee?

Dii i'ii'nif yiniye deijjechigii ta' ba' i' deesh' al niniizingo nahat'a bee dah' ooldahji yee atah siziingit niakdo' aaji' atah naha'dat'ego t'etiya' i'dil'ad. Dii deijjechigii al'qa nahat'a bee dah' ooldahji bee ba' nidaaho' aahgo dii Hoozdo Hahoodzooji ba' bee dahdizin. Ako t'aa shiniisigii ba' ind'esh'a' jiniigo ha' ha'dat'ehigii ee dii i'ii'nifigii doo atah izhdoo' al da.

Ako sha' dii haqgo i'ii'nif ?
A.R.S. 16-241(B)

Hoozdo Hahoodzooji Naat'aanii Alqajji' Dahsidahigii Napolitano yee hool'a'go Atsa Biyaazh 3 yookkaafgo, 2004 yihah bii' i'iniif.

Ha'at'ii sha'atdo biniye i'ii'nif ?
A.R.S. 16-241(A)

Waaashindoon Alqajji' Dahdinoodaal Biniye Baa Hodzodliigo Nididoolwofigii Bikée' ni' dooldah biniye i'ii'nifigii t'etiya' biniye i'ii'nif.

Deijjechigii dabizhi' sha' ee hait'ee go alkée' sinil dooleet ?
A.R.S. 16-245(B)

Jó Deijjechigii naaltsos nidayizimiyee'eddé' dabizhi' daadzoh dooleetigii ba' beesdahozingo adaalyaa. Hoozdo Hahoodzooji Naaltsos Iifni Nitaasigii yee hool'a' igii bik'ehgo. Ida'ii'niigoo t'aa'atso dabizhi' t'aa'ahceet'ee go alkée' sinil dooleet.

Yizhi' ahnaahoo'niigii ee doo bechaz'aa da.

Dii Waaashindoon Alqajji' Dahdinoodaal Biniye Baa Hodzodliigo Bikée' Ni' dooldah biniye i'ii'nifigii sha' ha'at'ii ee eh ?
A.R.S. 16-243

Waaashindoon Alqajji' Dahdinoodaal Yiniye Deijjechigii t'aa'atso dabizhi' naaltsos bee i'iniifigii dabika' dooleet. Ad'aa nahat'a bee dahda'iddéeh bee ba' la' da'azligii bik'ehgo naaltsos bee i'ii'nifigii ba' daholoo' dooleet.

Dii i'ii'nifigii bee ba' agha'niidee' igii ee Ashladiin Nitsaa Hadahwiisdozodé' aah da'aleehdi kodoo nahat'a bee dah' ooldahigii aadi ba' nijigaa dooleet.

Da' naaltsos bee i'ii'nifigii bee' alyaaigilsh ta' shich'ii' bil' f' doolnif ?
A.R.S. 16-245(D, E)

I'ii'nifigii Bóhólnihigii ee naaltsos bee i'ii'nif bee' alyaaigii nahat'a bee dah' ooldahji ba' hada' dilyaaigii ee dahonghan bik'eh nitsoozgo bich'ii' bil' ida' doolnif.

Naaltsos bee i'ii'nif bee' alyaaigo nihich'ii' bil' ada'alyaaigo bidáahógo Hoozdo Hahoodzo Bi Bee I' diidliif bik'ii' si' aago dii saad bikaa' dooleet "waaashindoon Alqajji' Dahdinoodaal Biniye Baa Hodzodliigo Nididoolwofigii Bikée' Ni' dooldah Biniye I'ii'nifigii naaltsos chodao' inigii"

Háadi sha' ida'ii'nif dooleet ?

Dine Bikéyahji kéedahot' inigii ee t'aa' inida'iyoh'niigoo ida'iyohnif dooleet t'aa' nihi hadahwiisdozooji bik'ehgo.

Aádoo' t'óó'ji kéedahot' inigii ee lahóó' ida'ii'nifigii da' ahhii' jii' ida' di' yoo'niigo ba' adaalyaa.

Bitséedi I'ii'nifigii.
A.R.S. 16-246

Ghaajji' 31 yookkaaf, 2003 yihah bii' bitséedi naaltsos bee i'ii'nifigii wókeed biniye aa' alyaa. Dii ee niifé' Yas Nih'ees 19 yookkaafji, 2004 yihah bii' naaltsos bee i'doot'ehigii bil' ada'alne' dooleet.

Bitséedi i'ii'nif bil' nahaz' aagoo ee Yas Nih'ees 30 yookkaafji, 2004 yihah bii' aa' adaat'ee dooleet.

Naaltsos bee i'ii'nifigii ta' shich'ii' bil' f' doolnif niniizingo k'ad beesah bee hodjinih 1(800)361-4402.

APPENDIX TO THE STATEMENT OF PENNY PEW: PREPARED STATEMENT OF PENNY PEW
SUBMITTED TO THE NATIONAL COMMISSION ON THE VOTING RIGHTS ACT

I requested some information from Kimmeth Yazzie, Navajo Nation language contact, who writes the following statement:

The purpose of the minority language consent decrees has generated a much greater cooperation and assistance to provide the necessary election and voter registration services to the Navajo Nation within the counties, much more than what was anticipated from the beginning. Although the consent decree specific to Apache County expired in 1992, the county and the Navajo Nation continue to strive forward to this day to make voter registration and election easier for the citizens on Apache County. Such services as siting outreach offices and Navajo speaking personnel in local areas with additional personnel when it becomes necessary has made voting easier for the people of Apache County. An example, the development of the Navajo Glossary has opened doors to better communication with the Navajo Nation citizens as well as other tribes seeking development of the same methods of outreach. Developments of graphic materials and video and audio recordings provide our people with a better understanding of the elections. Bringing voter registration to the local area eliminates the long distance travels just to register to vote for out outlying areas. Setting up and coordinating events together with the Navajo Nation and the county provides voters with two services at one location and a better understanding of the two distinctive elections. The clearance of all materials and information through the Navajo Election Administration provides assurance to the Navajo Nation that the proper and sufficient election information is provided to the people of the Navajo Nation, thus developing trust and alliance. Ideas to better provide services are always being exchanged between the county and the Navajo Nation. We learn from each others. Since the expiration of the consent decree in 1992, the relationship between the tribe and the county has grown and advanced beyond the bounds of the consent decree requirements.

In closing, I can honestly say that the language program has been positive for our county in educating and promoting our most fundamental right...the power of our vote.

Penny L. Pew
Apache County Elections Director

APPENDIX TO THE STATEMENT OF BARRY WEINBERG: *Problems in America's Polling Places: How They Can Be Stopped*; Temple Political and Civil Rights Law Review, Spring 2002

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Temple Political and Civil Rights Law Review
Spring 2002

Symposium
Constructive Disenfranchisement: The Problems of Access & Ambiguity Facing the
American Voter

*401 PROBLEMS IN AMERICA'S POLLING PLACES: HOW THEY CAN BE STOPPED

Barry H. Weinberg, Lyn Utrecht [ENa1]

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Weinberg, Lyn Utrecht

Introduction

Discrimination in voting is as old as voter registration. Throughout the years, laws and procedures have been used to keep people from voting. During the same time, laws have been on the books to battle discriminatory attempts to keep people off voter registration rolls. Some of these anti-discrimination laws have been effective, but many have not.

Beginning with the Fifteenth Amendment, [EN1] ratified on February 3, 1870, to the Voting Rights Act of 1965 and its amendments in 1970, 1975, 1982 and 1992, [EN2] the United States Congress has passed laws to prevent acts that disenfranchised minority group members. Also during this period other laws were enacted under Congress' power in Article I, Section 4, of the U.S. Constitution [EN3] and the Fourteenth Amendment [EN4] to authorize legal action *402 against practices and procedures that disenfranchised U.S. citizens. [EN5]

The authors have worked for over thirty years to fight against unjust voting procedures. Others recently have declared their readiness to join in the fight in view of the events surrounding the Presidential election in November 2000, which lent a new immediacy to concerns about the actions that prevent legitimate voters from casting their ballot, or having their ballot counted. Studies, reports, and other analyses have been produced to lament the fate of these voters, and to recommend various remedies for the problems that are found. But there are several basic points that need to be stressed in pursuing this analysis, and they can be boiled down to the following:

- Bad things happen in polling places;
- There are steps that have effectively stopped the bad things from happening in polling places;
- There are particular steps that can be taken now to stop bad things from happening in polling places;
- The states already have all the authority they need to administer elections fairly and effectively;

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- The states should stop making excuses and start fulfilling their responsibility for administering elections effectively;
- If the states cannot figure out where the problems are, the federal government should do so;
- States and the federal government need to make the financial commitment necessary to administer fair elections.

In this article we will review the antecedents to the present federal civil rights voting laws and the circumstances that led to the legislation. Then, we will explain the use of federal observers under the Voting Rights Act to monitor and report on the treatment of voters in polling places. Next, we will discuss actions the states can take and have taken to stop voter mistreatment that prevents the casting of effective ballots on election day. This includes on the spot corrections on election day, and gathering facts that will allow corrections to be made for future elections. Finally, we will show actions the federal government can take if states do not stop the mistreatment of voters, and the authority for taking that action.

*403 I. Before the Voting Rights Act of 1965

A. Disenfranchisement Was Direct And Hard to Stop

It has been noted that voter registration procedures were first instituted to erect hurdles that made it difficult for people to become voters. [FN6] Most famously, voter registration requirements adopted after the Civil War kept thousands of African-American people from registering to vote. From laws that allowed only white people to register to vote, to laws that were neutral on their face but discriminatorily applied, the number of African-Americans on the voting rolls was kept to a minimum.

Ultimately, in *Guinn v. United States*, [FN7] the U.S. Supreme Court found unconstitutional a 1910 amendment to the Oklahoma constitution that required literacy tests of all applicants for voter registration, but exempted everyone who was eligible to vote on January 1, 1866, and all of their lineal descendants. Since the Fifteenth Amendment became effective in 1870, and African-Americans were unable to register to vote before then, the 1910 amendment allowed all white males to avoid taking the literacy test, while requiring all African-American voter applicants to take it. Laws that insulate persons from a new requirement based on preexisting characteristics, which those persons have or get from their antecedents, are called grandfather clauses. A grandfather clause in a subsequent Oklahoma statute disallowed voter registration to everyone qualified to vote in 1916, but who neither voted in 1914, nor registered to vote during a two-week period in 1916. Those excepted from the application of the law were individuals who registered in 1914, a time when African-Americans could not register to vote because of the provision condemned in the *Guinn* case. The new Oklahoma statute was eventually held to be an unconstitutional infringement of the Fifteenth Amendment in *Lane v. Wilson*. [FN8]

Similarly, when the U.S. Supreme Court ruled that Texas could not limit the franchise to white people in *Nixon v. Herndon*, [FN9] that state abandoned its white-only law for general elections, but attempted to remove the state from involvement in political party candidate selection. When that scheme was found unconstitutional in *Smith v. Allwright*, [FN10] the Texas Democratic Party delegated its authority for candidate selection to a "whites-only" club, arguing that an election to nominate a political party's candidate for office is private action, not state action, and therefore the party can legally include or exclude whoever it wants from voting in the election. This scheme, too, was found *404 unconstitutional under the Fifteenth Amendment in *Terry v. Adams*. [FN11] During the pendency of these cases state laws effectively kept African-Americans from voting in Texas for decades.

Other laws that were neutral were as effective as "whites-only" laws in keeping African-Americans off of the voting rolls, but were found equally unlawful. The poll tax, adopted by Alabama during its 1901 Constitutional convention, and intended to keep blacks from voting, worked. [FN12] Literacy tests also precluded applicants from registering if they failed to demonstrate their literacy by reading and/or writing particular matters, such as portions of the state constitution. These tests allowed county voter registrars to arbitrarily keep African-Americans off of the voting rolls. [FN13]

As state laws were found to unconstitutionally bar African-Americans from voter registration, states adopted new tests to apply to voter applicants. When Louisiana adopted new voter registration standards, white people who were registered under the less stringent earlier standards were allowed to remain on the voting rolls. All the while, African-Americans, who had been kept off of the voting rolls until then, underwent testing to become registered. Although new white applicants were also required to meet the new standards, there was a racially discrepant impact of the scheme. The Supreme Court did not allow

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such racially unfair circumstances to continue. [FN14]

B. An Initial Federal Remedy for Disenfranchised Voters

In response to the paucity of practices and procedures that effectively disenfranchised African-American voters, federal civil rights voting laws were included in the Civil Rights Acts of 1957, 1960 and 1964, and codified at 42 U.S.C. § 1971 et seq. Taken together, these laws include additional language prohibiting racial discrimination in voting, [FN15] authorize the U.S. Attorney General to file lawsuits to enjoin racial discrimination in voting, [FN16] and contain administrative and judicial procedures that may be used to stop harassment of newly enfranchised African-American voters at the polls. These procedures marked Congress's initial attempt to breach the wall of federalism, dictating that it is the function of the states, and the states alone, to determine voter qualifications. [FN17] Because of a strong resistance to federal *405 intervention in state functions, the procedures adopted by Congress to fight the discriminatory application of literacy tests were ponderous and required continuing participation by the courts. [FN18]

These procedures were not effective in dealing with the problem of the discriminatory application of literacy tests to thousands of individuals throughout the South. Lawsuits required proof that white Southern county registrars, nearly all who conducted voter registration and elections along with other tasks, unfairly administered the state's literacy test to black applicants. [FN19]

To assemble such proof, U.S. Department of Justice ("DOJ") lawyers conducted investigations in each county in the Southern states that may have been at fault. At a county courthouse, lawyers, accompanied by F.B.I. agents microfilmed each voter registration application form--thousands in all. Lawyers and paralegals then reviewed each form to record whether the applicant was white or black (a W had been marked by the registrar on the application forms of white people, and a C, for colored, had been marked on the forms of African-Americans), and to record the applicant's education, the reason the applicant failed the test, and other relevant information. Nearly all rejected applicants were African-American.

Reasons for application rejection ranged from an inability to explain constitutional provisions, to an indistinct period after the applicant's middle initial. A number of African-American applicants who were rejected were college graduates, some with advanced degrees. It was common for the county registrar to complete applications in neat handwriting for white people who passed literacy tests, but allowed the applicant to sign with his or her own nearly illegible, shaky scribbles. Moreover, the clear evidence of the arbitrary rejection of African-American voter applicants as shown by the registration forms still required bolstering by other documentation and witnesses. [FN20]

*406 Given such an arduous task, and the continued inability of the legal system to anticipate the discriminatory actions of voter registrars when applying voter registration requirements, African-American citizens continued to be excluded from the rolls of registered voters throughout the South.

[R]egistration of voting-age Negroes in Alabama rose only from 14.2% to 19.4% between 1958 and 1964; in Louisiana it barely inched ahead from 31.7% to 31.8% between 1956 and 1965; and in Mississippi it increased only from 4.4% to 6.4% between 1954 and 1964. In each instance, registration of voting-age whites ran roughly 50 percentage points or more ahead of Negro registration. [FN21]

In addition, each time litigation was successful in enjoining one kind of discriminatory procedure, the state or the county would adopt another kind of discriminatory procedure that was equally effective in keeping African-Americans off of the voter rolls. Against this backdrop and the well-publicized efforts of civil rights workers helping southern African-Americans to register to vote, the beatings of African-American marchers on their way out of Selma, Alabama, heading to rally for voting rights on the steps of the state capital of Montgomery, Alabama, in March 1965, galvanized the nation and led to the passage of the Voting Rights Act of 1965 in August.

II. The Voting Rights Act of 1965

A. The Special Provisions of the Voting Rights Act

Congress found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well

decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims. [FN22]

The Voting Rights Act (the "Act") cut through the protective barrier of federalism with two important sections. Section 5 of the Act (the "preclearance" provision) required federal review of any new voting procedure states and counties might adopt. [FN23] This prohibited the adoption of new discriminatory practices when a jurisdiction's present practices were found to be unlawful. Section 4 of the Act instantly led to the enfranchisement of thousands of people by suspending the use of literacy tests and similar discriminatorily applied barriers to the registration of *407 African-Americans in the deep south. [FN24] Some states, such as Virginia, immediately stopped using literacy tests. In other southern states, federal examiners were appointed under Section 6 of the Act [FN25] and were assigned to counties to conduct fair voter registration under Section 7 of the Act. [FN26] when white county officials refused to stop their racially discriminatory voter registration practices. [FN27] This was no small task, as over 170,000 people were registered between 1965 and 1972 through the efforts of the federal examiners, mostly in Alabama, Georgia, Louisiana, and Mississippi. [FN28]

Further, in order to allow the U.S. Attorney General to know whether discriminatory action was taken against the newly enfranchised voters in the polling places on election day, Section 8 of the Act allowed that, whenever an examiner has been appointed:

the Director of Personnel Management may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election . . . for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election . . . for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. [FN29] *408 Thus, the use of federal observers in polling places initially aimed to protect the rights of new voters who were registered by federal examiners. Although federal voter registration became rare after 1972, the predicate under the Voting Rights Act for assigning federal observers has not changed: federal observers continue to be allowed only in counties that are certified by the U.S. Attorney General for federal examiners. [FN30] As a result, to allow the assignment of federal observers to a county, the county has been certified by the U.S. Attorney General or a federal court for federal examiners. [FN31] The assignment of federal observers continues to be a cornerstone of the enforcement of the Voting Rights Act. Over 23,000 federal observers have been assigned to monitor polling place procedures since 1966 and over 4,393 since 1990 alone. [FN32]

B. Racial Discrimination at the Polls

Federal observers were able to note and document a wide variety of discriminatory actions that were taken against African-Americans in the polls. Some of these insulting and direct actions are reflected in the United States' responses to interrogatories in *U.S. v. Conecuh County*. [FN33]

While providing assistance to a black voter, white poll official Albrecht asked, "Do you want to vote for white or niggers?" The voter stated that he wanted to give everyone a fair chance. Albrecht proceeded to point out the black candidates and, with respect to one white candidate, stated, "This is who the blacks are voting for." Poll official Albrecht made further reference to black citizens as "niggers" in the presence of federal observers, including a statement that "niggers don't have principle enough to vote and they shouldn't be allowed. The government lets them do anything." [FN34]

*409 White poll workers treated African-American voters very differently from the respectful, helpful way in which they treated white voters. When questions arose about the voter registration data for a white person, such as a person's address or date of registration, or when a white person's name was not immediately found on the poll books, the voter was addressed as Mr. or Mrs., was treated with respect, and the matter was resolved on the spot. If the voter's name was not found, often he or she either was allowed to vote anyway, with his or her name added to the poll book, or alternately, the person was allowed to vote a provisional or challenged ballot, which would be counted later if the person were found to be properly registered. If, however, the voter was black, the voter was addressed by his or her first name and either sent away from the polls without voting, or told to stand aside until the white people in line voted. African-American voters were not allowed to take sample ballots into the polls and were made to vote without those aids. [FN35]

African-American voters who were unable to read and write, due in large part to inferior segregated schools and the need to go to work in the fields at an early age, were refused their request to have someone help them mark their ballot, notwithstanding the Voting Rights Act's bar on literacy tests. In some instances, white poll workers loudly announced the African-American voter's inability to read or write, embarrassing the voter in front of his or her neighbors. When black

voters said they could not see the ballot well, some white poll workers went so far as to give a magnifying glass to the African-American voters, challenging them to read using the magnifying glass in front of everyone present at the polling place. Illiterate white voters, on the other hand, were allowed assistance by a person of their choice without comment. Routinely, white couples were allowed to enter the voting booth together to mark their ballots.

In those instances where African-American voters had an assistor in the booth, arbitrary rules were concocted that limited the number of voters an assistor could help, or made the assistor wait outside the polling place, requiring the voter to enter the polls alone and negotiate alone the sign-in procedures administered by unfriendly white poll workers, before being allowed to ask that the assistor be allowed to help. [FN36] All too often, when the voter said he or she needed assistance the white poll worker proceeded to help the voter, and did not give the voter a chance to ask for the assistor the #410 voter wanted, the voter did not know if the poll worker cast the ballot as the voter desired, and had no confidence that the ballot was correctly cast.

Racial discrimination in the polls is neither limited to African-Americans, nor limited to the south. On November 2, 1999, in the City of Hamtramck, Michigan, the qualifications of more than 40 voters were challenged on grounds that they were not citizens. The challengers were members of a group known as Citizens for a Better Hamtramck ("CCBH"), who were organized to keep elections pure. As described in the Consent Order and Decree in *U.S. v. City of Hamtramck*: [FN37]

6. . . . Some voters were challenged before they signed their applications to vote. Other voters were challenged after they had signed their applications and their names had been announced. The challenged voters had dark skin and distinctly Arabic names, such as Mohamed, Ahmed, and Ali. The challengers did not appear to possess or consult any papers or lists to determine whom to challenge.

7. Once challenged, the city election inspectors required the challenged voters to swear that they were American citizens before permitting them to vote. Voters who were not challenged were not required to do so. The city election inspectors did not evaluate the propriety or merit of the challenges. Some dark-skinned voters produced their American passports to identify themselves to election officials. Nevertheless, these persons were challenged by CCBH, and the election inspectors required them to take a citizenship oath as a prerequisite to voting. No white voters were challenged for citizenship. No white voters were required to take a citizenship oath prior to voting. [FN38]

The consent decree also states that city officials were apprised of the incidents, that they consulted with state election officials who were present in Hamtramck on election day, but neither the state nor the city election officials prevented the baseless challenges from continuing. It was claimed that other Arab-American citizens may have heard about the incidents and decided not to go to the polls to vote that day.

C. Discrimination Against Language Minority Group Members at the Polls

Besides discriminatory treatment of citizens based on race, citizens who speak English poorly, or not at all, have faced obstacles to voter registration and voting. In 1975, Congress took note of discrimination against people who have only a limited ability to speak English. For them, printing or providing information only in English is effective as a literacy test in keeping them from registering to vote or casting an effective ballot. Such disenfranchisement was outlawed when the Voting Rights Act was amended and expanded in 1975. The terms of Section 4 of the Act, containing the formula for applying special coverage to counties, were changed to include #411 among prohibited tests and devices:

the practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance or other material or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five percent of the citizens of voting age residing in such State or political subdivision are members of a single language minority. [FN39]

Language minorities are defined in the Voting Rights Act as American-Indian, Asian-American, Alaskan-Natives, and people of Spanish heritage. [FN40] Usually, political subdivisions as defined in the Act are counties. [FN41] The 1975 amendments to the Act required that when a newly covered jurisdiction

. . . provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language. . . . [FN42]

Counties in Arizona, New Mexico and Utah were certified for federal examiners, and federal observers were assigned to document the extent to which the English language was used in areas where many of the voters spoke Native-American languages but understood English only marginally. Similarly, federal observers have been assigned to polling places in

Spanish language areas of Arizona, Texas, New Jersey and New York City, and Chinese language areas of New York City, and San Francisco and Oakland, California. [FN43] In all these areas minority language citizens were allowed to *412 register to vote, but the use of the English language instead of the voters' first language prevented them from understanding the voting instructions and the ballot. Polling place workers either were not able to speak the language of the voters, or if they could, were not trained to translate the documents and procedures into the language of the voters. By the 1990s federal observers were assigned to monitor discrimination against language minority group members in numbers equal to the federal observers assigned to monitor non-language racial discrimination. [FN44]

The need for the language minority provisions of the Voting Rights Act continues to be demonstrated in areas of the country where English is not persons' primary language. Normally one would assume that polling place workers would be chosen from the population where the polling place is located, and that they would speak another language in addition to English with the same frequency as the voters. In many instances, however, this did not happen. For example, in ethnically changing neighborhoods in New York City, the choices of the political party apparatus resulted in the repeated appointment of English-speaking poll workers where a large portion of the new voters in a precinct were Spanish-speaking Puerto Ricans. In Passaic, New Jersey, English-speaking poll workers were unable to find the names of Spanish-speaking voters in the polls books because the poll workers did not know that the voters' family name traditionally was the second of three names they used. Some voters were denied the ballot because they identified their street name according to common Spanish usage rather than the formal English name. [FN45] In Texas and southern Arizona polling places Hispanic voters were admonished not to use Spanish when talking in the polling places and when giving assistance to voters who needed help when voting. Moreover, the citizenship of Hispanic voters was questioned at the polls, with voters being required to somehow provide on-the-spot evidence of their citizenship before being given a ballot, such evidence was not required of Anglo voters. [FN46]

Evidence of other kinds of discriminatory behavior of polling place workers and others toward Spanish language voters inside the polls is provided in the reports of the Independent Elections Monitor appointed in *413 September 2000 by the court in a consent decree in U.S. v. Passaic City. [FN47]

At P.S. 6, observers called to report that the challenger was making racist remarks about Hispanics. At the Ukrainian school, challengers became very aggressive and were yelling at voters, stating that they did not live in the country and should not vote. Ironically, many of these challenged voters were off-duty Passaic City police officers. Angel Casabona, Jr. was one such challenged police officer who avoided confrontation and properly came to Passaic City Hall to have his voting status clarified. Escorted by the City Clerk and investigators from the prosecutor's office, Mr. Casabona reentered the polling site and was permitted to exercise his vote. The brazen challenger was reprimanded and board workers were reminded that challengers should not be interacting with voters. [FN48]

The most disturbing incident of the June 26, 2001 municipal primary election occurred at the polling place at St. Mary's School in Passaic. Someone allegedly stole the flag from outside the polling place. The police were called. An officer responded and caught the purported perpetrator. The Officer entered the polling place and asked who had called the police. No one responded. The officer barked comments in substance to the poll workers as follows, "Can't you read? What country do you come from?" When a municipal worker of Indian origin came to see what the problem was, the officer then asked, "And what country do you come from?" When a Latino federal observer tried to explain the dictates of the consent decree, the officer asked for credentials. When the observer showed his credentials, the officer found them inadequate because they lacked a picture and detained the observer. The Officer told the observer, "I could arrest you for this." Upon being alerted to the controversy, I asked investigators from the Passaic County Prosecutors Office and Deputy Chief of the Passaic County Police Department to intercede. When a Sergeant from the Passaic Police department responded at the scene and learned what had happened, he apologized to the federal observer and told him he thought some sensitivity training might be in order for the officer. Notably, this discriminatory behavior took place in a city where the Latino population is at 62 percent. Intolerance in the city is still existent and hiding under color of official right. [FN49]

The use of English rather than Chinese in polling places in Chinese neighborhoods of San Francisco and Oakland (Alameda County), California, and New York City left voters confused about procedures, and ignorant of ballot propositions and contested offices. As was noted in the Settlement Agreement and Order in U.S. v. Alameda County:

*414 According to the 1990 Census, the population of Alameda County includes 68,184 Chinese Americans and 30,120 Chinese American citizens of voting age. The 1990 Census reports that 11,394 persons, or 37.83 percent of the Chinese citizen voting age population in Alameda County, and 1.3 percent of the total citizen voting age population in Alameda County do not speak English well enough to participate effectively in English language elections. Thus, over 11,000 Chinese American citizens in Alameda County cannot function effectively in the electoral process except in the Chinese language. [FN50]

Problems were also severe in Native-American areas of Arizona, New Mexico and Utah. The problems faced by Native-Americans in these areas are illustrated in Cibola County, New Mexico, which contains the Ramah Chapter of the Navajo Reservation and the Acoma and Laguna Pueblos. The Stipulation and Order in *U.S. v. Cibola County* [FN51] states that:

5. According to the 1990 Census, 57.8 percent of the Navajo voting age population and 18.1 percent of the Pueblo voting age population in Cibola County do not speak English well enough to participate effectively in English language elections. Thus, a significant proportion of the Native-American population of Cibola County, and a significant majority of Navajos, cannot function in the electoral process except in the Navajo or Keresan languages. [FN52]

6. The Navajo and Keres populations of Cibola County live in circumstances of significant isolation from the non-Native-American populations of the county. Cibola County is unusually large in physical terms and covers a geographic area roughly the size of the State of Connecticut. Over four-fifths of the non-Native-American population lives clustered within or near the adjacent incorporated communities of Grants and Milan, close to the county courthouse. The Acoma and Laguna population centers are between 25 and 50 miles away from Grants, the county seat, while the Ramah Chapter House is approximately 50 miles from Grants. The isolation of the Native-American population of Cibola County burdens their access to the franchise.

8. Native-American citizens living within Cibola County, suffer from a history of discrimination touching their right to register, to vote, and otherwise to participate in the political process. Until 1948, Native-American citizens of New Mexico were not permitted to vote in state and local elections. [FN53] In 1984, the court in *Sanchez v. King* held that the New Mexico state legislative redistricting plan discriminated against Native-Americans. [FN54]

9. The level of political participation by Native-American citizens of Cibola County is depressed. Voter registration rates in the *415 predominantly Native-American precincts have been less than half the rate in non-Native-American precincts, and Native-Americans are affected disproportionately by voter purge procedures. Although Native-Americans comprise over 38 percent of the county population, fewer than eight percent of all absentee ballots have been from the predominantly Native-American precincts. There is a need for election information in the Navajo and Keresan languages, and a need for publicity concerning all phases of the election process for voters in Ramah, Acoma and Laguna. The rate of participation by Native-Americans on such issues is less than one third of the participation rate among non-Native-Americans. There is a need for polling places staffed with trained translators conveniently situated for the Native-American population. [FN55]

The remedy for this unlawful disparity is complicated by the facts that (1) the Navajo and Pueblo languages are oral, not written, and (2) there are no equivalent terms in the Navajo and Pueblo languages for many words and phrases in the election process.

Native-American polling place workers in reservation precincts faced a more difficult task than white poll workers in getting to the training session for poll workers that were held many miles away in county seats where most white people lived. At the training sessions Native-American poll workers were given little or no instruction about how to translate ballots and propositions, and many of their attempts to do so on election day resulted in the most rudimentary references. For example, poll workers assisting voters at the polls would refer to the office of secretary of state as someone who works in the state capitol, and bond levies for education were said simply to be increases in taxes. Many times the Native-American poll workers found it so difficult to figure out how to explain items on the ballot they just instructed the voters to skip the offices or propositions. Moreover, Native-American voters who had been purged from the voter rolls because they failed to respond to written notices they either did not receive [FN56] or did not understand, were turned away from the polls with no explanation of why they were not able to vote, and were given no opportunity to re-register there. [FN57]

*416 III. How To Find Out Where Unjust or Discriminatory Poll Procedures Will Happen: The Federal Observer Model

A. The Three-Step Pre-election Investigation

The task of assuring compliance by polling place workers with appropriate polling place procedures requires (1) knowledge of what is happening in the polling places, and (2) the authority to correct actions that are in violation of the prescribed procedures. For over thirty-five years the DOJ has determined, before each election, what will happen in specific polling places in particular counties in states far from Washington, D.C. Based on this information DOJ determined at which polling places discriminatory activity would take place, and the exact number of federal observers needed at each particular polling place, from among the hundreds of counties in the sixteen states that are fully or partially covered under Section 4 of the Voting Rights Act, [FN58] and the ten additional jurisdictions in other states that have been and remain certified by courts

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under Section 3 of the Act. [EN52]

This DOJ effort, known as a pre-election survey, is conducted by the Voting Section of DOJ's Civil Rights Division. Pre-election surveys began right after the Voting Rights Act was enacted, as a tool for determining where and how many federal observers would need to be assigned under Section 8 of the Voting Rights Act. Through the years the pre-election surveys have remained relatively unchanged for determining where racially discriminatory actions (as contrasted with language-based difficulties) would occur in the polling places of the deep south. This process is instructive on a broad level because it can be used, with variations, by states throughout the country to determine, prior to election day, where problems will occur on election day in polling places across the state.

The DOJ focus during the pre-election surveys is to find circumstances that are likely to lead to actions that will disadvantage voters in the polls on election day. To allow black voters to vote without interference in the South, the Voting Section focuses on counties where black candidates are facing white candidates, especially where political control of the governing body is at stake. Those are the circumstances where experience has shown that *417 polling place workers are more apt to take actions that deprive African-Americans of their right to vote. Moreover, the inclination of polling place workers to take discriminatory action against African-American voters is more likely when the black candidates have a real chance of beating white opponents. (For concerns about other kinds of problems at the polls, the pre-election survey would focus on the facts and antipathies relating to those problems).

The surveys begin about six weeks before the election, which is a time when candidate qualifying has been completed and campaigning has been in progress. The Voting Section contacts county election directors to determine a number of facts, including the name and race of the candidates, the office each is contesting, which candidates are incumbents, the county's procedures for appointing polling place workers, and the county's procedures for responding to problems that arise on election day. Telephone calls are also made to African-American people in each county who are familiar with the way elections have been conducted in the county during recent elections, who know who the candidates are and how the candidates have been conducting their campaigns, and who are knowledgeable about relationships between the races in the county and whether there have been any recent racial incidents in the county.

Often, on-site information is necessary to decide whether federal observers are needed. Voting Section attorneys then travel to the counties where the facts show that poll workers will make it difficult for black voters to cast their ballots for the candidates of their choice. The attorneys interview the county election officials, the county sheriff (or chief of police, if a city election is in issue), African-American county residents, including people associated with community and civil rights organizations, and candidates. Thus, the attorneys get sufficient information to make their recommendation to Voting Section supervisors as to whether federal observers should be assigned for the election, and, if so, the number and placement of federal observers that will be needed on election day. [FN60] The polling places that are selected for the assignment of observers are those at which (1) the facts show that African-American voters are likely to be mistreated or misled on election day, and where (2) the county has no effective way to either know what is happening in the polls, or for responding to problems that occur at the polls, or both.

During the pre-election surveys the Voting Section supervising attorney talks frequently with the Voting Rights Coordinator at the Office of Personnel Management ("OPM") who recruits and supervises the people who serve as observers. [FN61] Thus, OPM is aware of the identity of the counties *418 that are the subject of field investigations, and of the recommendations of the attorneys for the assignments, numbers and poll locations of federal observers. Because of the ongoing coordination between the Voting Section and OPM, the federal observers are chosen by OPM and are ready to depart for their assigned location the moment a final decision is made by the Assistant Attorney General for Civil Rights as to the numbers and placement of the observers. [FN62]

B. Federal Observers on Election Day

The pre-election process not only gives DOJ information it needs to determine where and how many federal observers will be needed on election day, it puts DOJ lawyers in contact with county election officials before the election, and the DOJ lawyers inform the county officials of the problems that DOJ found may occur in the county's polls on election day. This contact continues during the election, as the DOJ lawyers provide the county election officials with information the lawyers get from the observers.

The observers are briefed by DOJ attorneys and the observer captain on the day before the election. The observers have pre-printed forms on which to record the activity in the polls. Observers often attend the ballot count and record the number of votes received by each candidate. A federal observer report form can be found at Appendix E.

During election day an observer supervisor repeatedly visits the polling places where federal observers are stationed. This supervisor remains in constant telephone contact with the DOJ attorney in the county. This gives the DOJ attorney in the county a constant flow of information throughout the day about activities that transpire inside the polls. [FN65] When the federal *419 observers inform the DOJ attorney of actions of polling place officials that the attorney concludes are interfering with the voting rights of African-Americans, the DOJ attorney gives the facts to the local official in charge of the election to stop the discriminatory activity. Local officials may also use this information after the election to take steps to prevent the incidents from happening again.

Similar steps are taken on election day when federal observers are used to determine compliance with the language minority provisions of the Voting Rights Act. The pre-election preparation is different, however because an inability or lack of desire of poll workers to provide information to non-English speaking voters does not usually depend on the identity of the candidates or the issues involved in a particular election. The information obtained in one election about language minority procedures will determine whether federal observers are needed in the next election. [FN61]

The reports of federal observers have primary emphasis on the language aspects of polling place procedures and the actions of polling place workers. [FN65] A federal observer report form used for language minority elections can be found at Appendix F. Usually, it is neither required that the observers arrive at the opening of the polls, nor that they stay all day. The goal is to have the observers attend the polls long enough to witness a number of minority language voters go through the voting process. This will give the observers sufficient facts to allow the DOJ attorneys to analyze the county's compliance with the law.

We should emphasize that federal observers do not interfere with the election process. Their limited function, to pass along information to their OPM supervisors and the DOJ attorneys, is in accord with the dictates of Section 8 of the Voting Rights Act. [FN66] The observers must not give instructions to poll workers, must not give help to voters, and must not share their observations, judgments or opinions with individuals in the polls. They are eyes and ears. They are paid witnesses.

IV. Requiring Counties to do Their Job

In its enforcement of all federal civil rights laws the DOJ attempts to obtain voluntary compliance from prospective defendants. This has been especially true when enforcing the Voting Rights Act because the prospective defendants are officials of state and local governments.

*420 From the beginning of DOJ's enforcement of the Voting Rights Act, DOJ lawyers personally conducted investigations in each county before examiners or observers were assigned and regularly checked on the progress of examiners while voter registration was conducted. On election day, a DOJ attorney continues to be present in each county to which federal observers are assigned. The DOJ attorney obtains information from the observers during election day and debriefs the observers immediately after the election. During their presence in the counties, the DOJ lawyers have continuous contact with county officials to give them the information gained from their pre-election investigation in the county and from the federal observers. Those local officials have the opportunity to instruct the head worker at the polling place to follow the appropriate procedures. The federal observers inside the polling place witness the cessation of the discriminatory action, or if the discriminatory action continues, the DOJ lawyer again brings the information from the observers to the attention of the county election official to attempt to get corrective action. Thus, federal observers gather evidence of discriminatory activities in the polling place for future legal action, and serve to eliminate discriminatory action on the spot. At times, the mere presence of federal observers at the polls simply prevents the tendency of polling place workers to discriminate against minority voters.

A. Court-ordered Remedies Require Counties To Do Their Job in the South

Some compulsive action is needed when county election administrators do not address outstanding problems in the polls, and do not follow proper election day procedures. A primary reason for the mistreatment of African-American voters was and continues to be the failure of local election officials to appoint African-Americans as polling place workers. The evidence of mistreatment that this discriminatory policy had on African-American voters provided a firm basis for court

orders requiring defendants to take specific steps to recruit and hire African-Americans to work in the polls. One good example of this result is the consent decree in *U.S. v. Conecuh County*. [FN62] The decree required the defendant political party executive committees (responsible for nominating people to serve as poll workers) to "engage in affirmative recruitment efforts aimed at ensuring that the pool of persons from which nominations are made fully reflects the availability of all qualified persons in Conecuh County who are interested in serving as election officials, without regard to their race or color." [FN63]

Those recruitment efforts were required to include encouraging candidates to "seek out and propose for nomination black citizens," and sending notices to local organizations comprised predominantly of black citizens . . . to advise them that the party intends to nominate persons to serve as election officials and encourage them to have interested persons notify the chairperson of the respective political party executive committee "of their willingness to serve as election officials." [FN64]

A 1993 consent order in *U.S. v. Johnson County* stated that:

1. According to the 1990 Census, the total population in Johnson County is 34 percent black and the total voting age population is 29.2 percent black.

7. Of the one hundred thirty one individuals who were employed by Johnson County to serve as poll officials between 1988 and August 1992, eighteen (14%) were black. There were no black poll workers during this period at seven of the twelve polling places.

8. Only eight (12%) of the sixty-six poll officials employed by Johnson County for the July 21, 1992 primary election were black. There were no black poll workers at eight of the twelve polling places.

9. Of the one hundred and six poll officials employed by Johnson County for the November 3, 1992 general election, only sixteen (15%) were black. There were no black poll workers at six of the twelve polling places.

10. No black person has ever served as a managing poll officer or an assistant managing poll officer at any of the county's polling places. [FN71]

Included in the Johnson County consent decree among the steps the defendant county commission and supervisor of election must take to have African-Americans fairly represented among the polling place workers are, "[s]ending written notices to local organizations comprised predominantly of black citizens . . . to advise them that the county intends to appoint black persons to serve as poll workers and poll managers;" and "[c]ontacting black candidates and members of the political parties . . . to ascertain the names, addresses and telephone numbers of black citizens who are qualified and available to serve as poll officers." [FN71] In addition, the defendants must publicize in local newspapers, on radio, on television and on posters their policy of conducting elections free of racial discrimination. They also must train the poll workers on how to perform their duties in a racially nondiscriminatory manner, and, with specificity, on how to deal with voters who need assistance.

Even with the specific steps set out in the fifteen page Johnson County consent decree, the reports of federal observers showed that African-American citizens of Johnson County were continuing to be excluded from among the ranks of those appointed to work at the polls because the supervisor of elections did not adhere to the terms of the decree. After further discussions between the county and DOJ, in lieu of DOJ pursuing contempt of court proceedings the county appointed a biracial committee "422 formed of county residents to perform the preliminary poll worker recruitment and nomination functions previously performed by the election supervisor, leaving her with her statutory duty of formally appointing the poll workers." [FN72] As a result, African-Americans were fairly appointed among those who worked at the polls, and discrimination against African-American voters at the polls abated in Johnson County, Georgia, in immediately subsequent elections.

Both the Conecuh County and Johnson County cases show how information gathered by observers can serve as the evidentiary basis for litigation, how particular individuals at the county level can persist in discriminatory procedures despite state law and federal litigation, and how the identity and training of the people working inside the polling places is of primary importance in eliminating injustice from the polls. It should be remembered that in both instances the DOJ lawyers first shared their information with state and local election officials in an attempt to allow those officials to eliminate the discriminatory treatment of voters. These efforts provided the election officials with something they could obtain by themselves, i.e., information about what went wrong in their polls. The need for the resulting litigation demonstrated that

those officials were not willing to stop the discriminatory conduct.

B. Court-ordered Remedies Require Counties To Do Their Jobs for Language Minorities

Even after the Voting Rights Act was amended in 1975 to require that areas designated under a formula must provide information and ballots in languages other than English, inadequate training of polling place workers continued to disadvantage minority language voters. The reports of federal observers gave the attorneys from the Department of Justice the information they needed to prove to county officials that violations of the Voting Rights Act had occurred, and to obtain consent decrees that set out specific steps that the counties would take to effectively provide and translate election information to Native-American citizens.

Most of the consent decrees to cure discriminatory actions in Indian country under the language minority provisions of Section 203 of the Voting Rights Act [FN72] set out in detail the procedures that election officials had to follow for voter education, voter registration, translation and balloting. [FN74] It is significant that the great majority of the provisions in the consent decrees focused on the counties' administrative responsibilities, including hiring *423 additional county personnel, to try to give Native-American voters equivalent access to information about an election and voting procedures as white people received as a matter of course, because all information was provided in English and in areas near the county seats.

Thus, the Stipulation and Order in *U.S. v. Cibola County* is forty-four pages long, thirty-three pages of which is a Native-American Election Information Program. [FN75] This program provides that, "Cibola County shall employ at least three Native-American Voting Rights Coordinators who will coordinate the Native-American Election Information Program in Cibola County . . ." These coordinators have to be bilingual in either Navajo or Keres and English, they are to be hired only after the county consults with the tribes, they are to be trained in all aspects of the election process, they are to attend and make presentations at chapter and tribal council meetings, and perform numerous, specifically described functions that would provide election information to the Native-American citizens of Cibola County.

It was and remains difficult, however, to compel obdurate county clerks and other county election administrators to perform the myriad election-connected functions in a way that meets the requirements of the court orders. These cases argue persuasively for continuing the practice of seeking detailed court orders that can be enforced through contempt proceedings. [FN76]

An alternative approach was taken in a consent decree between DOJ and Bernalillo County, New Mexico, where the court order was accompanied by, but did not incorporate, a manual containing procedures to be followed in order to comply with the language minority requirements of the Voting Rights Act. [FN77] The consent decree required that the county hire a native language coordinator who is bilingual in Navajo and English, and specifically noted that, "[t]he primary responsibility of the [native language coordinator], a full-time employee of Bernalillo County, shall be to carry out the county's Navajo language election procedures, publicity and assistance, including assisting the county to carry out the procedures in the manual . . ." [FN78] The consent decree also required the county to establish a travel, supply, and telephone bill budget for the native language coordinator, [FN79] and subjected the county to the preclearance provision in Section 3(c) of the Voting Rights *424 Act, [FN80] which allows the county to make changes in the manual and for DOJ to review those changes to determine that they are nondiscriminatory before they can be implemented. [FN81] This approach has the benefit of allowing the county to tailor its administrative procedures to its particular personnel and office situation, and of allowing practical changes to be made in the administrative procedures when necessary without having to request the three-judge court for an amendment to the court order.

V. State Laws Governing Irregularities, Interference and Intimidation At Polling Places

Each state has established laws and regulations that govern the conduct of elections within the state. These include laws establishing the location of polling places, conduct of elections, methods of getting on the ballot, composition and printing of the ballot, appointment of officials overseeing the conduct of the election, selection and training of poll workers, qualifications of voters, and absentee voting. Many of these laws were intended to ensure that voters may freely exercise their right to vote.

A. Poll Watchers

Most state laws give the candidate or political parties the power to observe behavior in the polling places. These are the people who choose the polling place watchers, and they have the power to refuse to rehire watchers who do not properly apply state polling place procedures. Thus, the law of New York says:

At any general, special, town or village election, any party committee or independent body whose candidates are upon the ballot, and at any primary election, any two or more candidates and any political committee may have for each election district three watchers at any one time . . . Watchers shall be appointed by the chairman of any such party, committee or independent body or by the candidates. [FN82] Similarly, Utah law says:

For each regular general election or statewide special election, and for each regular primary . . . each registered political party and any person interested in a ballot proposition appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of the ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages. [FN83] *425 Though poll watchers are on hand during elections, state laws do not routinely give state-level officials the authority to take action, apart from the authority to prosecute officials for malfeasance, if county or municipal election officials refuse to take steps that will assure fair treatment of voters at the polls. At most, state level officials are empowered to gain information about activity in the polling place that can serve as the basis for action after the election.

B. Prohibiting Intimidation and Interference

In addition to prescribing routine election procedures, most states have laws that prohibit intimidation of voters or interference with their ability to freely exercise their right to vote. Some state laws have broad prohibitions against interference with or intimidation of voters at any time. Other states only prevent interference with or intimidation of voters in entering and exiting the polling place. Others only prohibit interference with election officials in the exercise of their duties and are silent with respect to voter intimidation. [FN84] While penalties for violations of most voter intimidation statutes are misdemeanors under state laws, some are felonies. [FN85]

In addition to providing criminal penalties, a few states have created other statutory means for dealing with voter intimidation, such as creating special civil causes of action or providing special remedies such as invalidation of elections. For example, Tennessee Code Annotated Section 2-3-108 allows invalidation of an election based on violation of statutory provisions against intimidation. [FN86] Delaware law creates a specific civil cause of action for those who are victims of intimidation or attempted intimidation. [FN87]

*426 While most states have at least some statutes designed to protect voters from interference or intimidation, only a few state laws provide specific statutory means for dealing with voter intimidation or interference while it is happening. For example, Nebraska and Washington allow certain specified officials to take actions, including arrest, to clear entrances and exits from polling places when obstructed. [FN88]

South Carolina and Virginia specifically confer special authority on election officials to take action to enforce state laws against voter intimidation or interference of a broader nature than physically blocking access to polling places. South Carolina law grants police powers to managers of elections. [FN89] Virginia law permits election officers to order the arrest of persons under certain circumstances. [FN90] Wisconsin law requires municipal clerks and election inspectors to prevent interference with voters at the polls, but does not provide how they are to do so. [FN91] These state provisions are unusual in that they specifically authorize election officials to take action to stop voter intimidation or interference at the time they occur.

While very few states allow intervention at the polling place, there are some states that provide a mechanism for gathering information after bad things at polling places occur, similar to those mechanisms under the federal civil rights laws. Take the laws of Illinois and Georgia, for example, which permit an official in the Secretary of State's or Attorney General's office or the appropriate county's district attorney's office to take direct action regarding activity that occurs in the polling places, but only after the action has occurred. In Illinois, the State Board of Elections may review and inspect procedures and records relating to the conduct of elections and voter registration as may be deemed necessary, and report violations of elections laws to the appropriate State's Attorney. [FN92] In Georgia:

*427 It shall be the duty of the State Election Board . . . to investigate, or authorize the Secretary of State to investigate, when necessary or advisable, the administration of primary and election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney who shall be responsible for further investigation and prosecution . . . [FN93]

History, however, is not on the side of broadening the investigation powers of state actors. For, historically, state actors have been part of the problem at polling places and not the solution. This is especially a dilemma in legislating against voter intimidation and interference.

C. Law Enforcement—Problem or Solution

There are state laws that recognize this problem and specifically prohibit law enforcement officials from engaging in intimidation or appearing within a certain distance of polling places. Pennsylvania law provides that: "In no event may any police officer unlawfully use or practice any intimidation, threats, force or violence nor, in any manner, unduly influence or overawe any elector or prevent him from voting or restrain his freedom of choice, nor may any such police officer electioneer or directly or indirectly attempt to influence the election or electors while within one hundred feet of a polling place." [FN94] South Carolina limits the presence of police officers only to those summoned by election managers to enforce their orders. "No sheriff, deputy sheriff, policeman or other officers shall be allowed to come within the polling place except to vote unless summoned into it by a majority of the managers." [FN95] There are other states that, while not prohibiting law enforcement officers from being present at polling places, specifically prohibit acting under color of authority to intimidate or interfere with voters. [FN96]

VI. Problems That Allegedly Occurred in Polling Places On Election Day November 7, 2000

Determination of the optimum means of ensuring the right of all citizens to freely cast their votes without interference or intimidation depends on the ability to identify what the problems are and fashion an appropriate remedy. Some problems can be dealt with on election day at the polling place, while others may require investigation and action after the fact. But the key is to establish appropriate systems to gather the information as has been done at the federal level in places covered by the Voting Rights Act.

The 2000 presidential election focused perhaps the greatest attention ever on the election process in the United States. Numerous organizations conducted investigations and issued reports on what happened at the polls on November 7, 2000. [FN97] Some of these inquiries were broader than a review of what happened in Florida. While historically there has been some public awareness of problems at the polls in the United States, many members of the public were shocked to discover that, in fact, every ballot cast for president is not necessarily counted and that problems at the polls are not limited to certain areas of the country where there are minority groups. In the past, to the extent that there has been publicity regarding polling place problems, that publicity has been primarily due to actions taken by the Department of Justice in enforcing the Voting Rights Act. Thus, many people believed that election day irregularities were limited only to particular areas of the country and that these irregularities were largely a thing of the past. As a result of the focus on the 2000 presidential election, however, there is a more general awareness that polling problems are far more prevalent and widespread.

For years, in addition to local poll watchers, both the Republican and Democratic parties have conducted election day operations during which attorneys and political operatives across the country have monitored actions in the polls on election day, and, in the case of recounts, throughout the recount process, sometimes for weeks after the election. In 2000, this activity extended well beyond election day. While the DOJ focus on election day is to gather information to conduct investigations for future action and to address problems that arise on election day, the parties' election day operations have been more focused on identifying problems that could potentially be solved during the election day. [FN98] As part of this operation, the parties maintain phone lines that receive and centralize reporting of election day irregularities. Normally, this operation is over when the polls close in the last state. [FN99] In 2000, however, that was only the beginning. On the day after the election, reports of election day irregularities came flooding into the Democratic National Committee and the Gore/Lieberman campaign. [FN100] Special phone lines were set up to receive these calls and obtain contact information. Several days later, teams of attorneys were set up in Florida to contact complainants and gather and organize the allegations of irregularities. Some of this information was used in the various lawsuits that were brought in Florida.

Despite the numerous organizations that conducted reviews of election day 2000, those reviews resulted in reports, not action. While the Justice Department may have investigated specific allegations, there has been no public comprehensive official investigation into most of the alleged irregularities. Therefore, it is impossible to determine how many of the allegations were meritorious. For purposes of this article, however, it is not necessary to know. There is now a widespread perception that election irregularities do occur in this country—including some beyond the types of problems addressed by the

Voting Rights Act. A review of the types of allegations made in 2000 is helpful to an understanding of what steps states can take to restore public confidence in the electoral system.

In 2000 some of the allegations of irregularities were known on election day and others were not discovered until after that day. In the case of some election day allegations, there were opportunities to take steps to attempt to correct them before the polls closed. Following is a summary of the types of allegations of irregularities made and some specific examples of each.

A. Ballot Design Irregularities

Poor layout of a ballot can result in voter confusion. Perhaps the most *430 prominent allegation of flawed ballot design is the now infamous "butterfly ballot" in Palm Beach County Florida. The design of the ballot was such that many people were uncertain which hole to punch for the candidate of their choice. In some instances voters punched more than one hole for president (known as an "overvote"). In other instances, voters believed that they might have punched the wrong hole. When this issue was publicized, there was a concern that many people who intended to vote for Al Gore, in fact cast votes for Pat Buchanan. As a result of this confusion, there were also allegations that voters who were confused or thought that they had miscast their vote were denied an opportunity to discard that ballot and vote a new ballot, even though Florida state law provided that remedy.

Party officials were aware on election day of the alleged confusion caused by the butterfly ballot. Palm Beach county officials were contacted and in some instances, signs were posted in polling places advising people of this confusion and urging that they review their ballot carefully. Information was also put out through radio stations advising of the confusion and attempting to alert voters who had not yet gone to the polls. For some voters, of course, it was too late. This led to numerous calls from individuals who were afraid that they might have voted for the wrong person, seeking advice as to what they could do once they left the polls.

B. Very Long Lines at the Polls

There were numerous complaints on election day that lines, particularly in minority polling places, were excessively long. Long lines allegedly discourage some voters, particularly those who must take off time from work to vote and those whose employers do not readily provide leave for voting. There were allegations that some people who saw the lines in various polling places became discouraged and left without casting votes.

There were also allegations of confusion regarding the rules on voting after the polls close. Most states provide that any voter in line at the time of poll closing is entitled to vote. There were allegations, however, that people waiting in line outside polling places were told that they might as well leave because they would not be allowed to vote even though they were in line at the time of closing.

In one state, a lawsuit was brought on election day seeking to keep the polls open late because it was alleged that long lines caused by inadequate numbers of polling places and voting machines, and machine breakdowns, would result in the de facto denial of the right of many voters to vote. A Circuit Court Judge of the Circuit Court of the City of St. Louis ordered that the Board of Elections extend the hours of voting, but that order was overturned later that day on appeal to the Missouri Court of Appeals. [FN10]

*431 C. Inadequate Parking Facilities and Lack of Public Transportation

There were allegations that many sites selected for polling places were not easily accessible by public transportation or had inadequate parking available. These allegations were made in Florida as well as other states. Since people sitting in their cars were not in line at the polls, they would not be eligible to vote after normal poll closing times even though they were waiting in the parking lot to find a parking space. Lack of access to public transportation also can cause hardship for voters, particularly for those who must take time off from work. A lengthy commute to the polls or a long walk from public transportation can discourage people from voting.

While, in the absence of an investigation, there was no evidence that most parking and transportation problems were malicious, there were some allegations that local law enforcement authorities directed cars to places where there was no parking available and sought to vigorously enforce no parking zones around polling places even where it was clear that the

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 11 Temp. Pol. & Civ. Rts. L. Rev. 401
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polling place had inadequate parking facilities available. These types of allegations are ones that can potentially be remedied on election day, if local observers are made aware and know how to intervene with state and local officials to attempt to solve the parking problems.

D. Motor Voter Problems

There were numerous allegations from across the country that voters who had registered under the National Voter Registration Act showed up at their polling place and were not on the rolls. Under the NVRA, state agencies that obtain voter registrations are required to forward them to the appropriate authorities. These allegations are ones that the Department of Justice typically investigates after the election is over to determine whether there were widespread systemic problems or neglect by the state agencies charged with implementing the law.

E. Interference by Law Enforcement Officials

Presence of state and local law enforcement officers can have a negative impact on turnout and can intimidate legitimate voters. There were allegations in various parts of the country that officers set up road blocks outside polling places to perform random seat belt, drivers license and car registration checks; that officers stood outside polling places with lists of outstanding warrants looking for suspects; and that officers stood outside polls suggesting that voters needed to be able to prove their eligibility to vote by producing some type of identification. These types of allegations can be brought to the attention of state and local authorities who have the ability to intervene during election day and stop any unauthorized activity under color of law. Some such allegations were made in Florida on election day and were investigated by state officials. [FN102]

*432 F. Integrity of Ballot Boxes

In most states, ballot boxes (or the equivalent depending on the system used) are collected at the local level and are transported to central locations for tabulation. The integrity of the count depends heavily on the security of those boxes. There were allegations across the country that ballot boxes were missing; that they were found later but their chain of custody could not be determined; that ballot boxes were left in unsecured areas to which there was unrestricted access; and that the number of ballots counted did not correspond to the number of voters voting. Of course, these types of allegations are not new, nor do they come primarily from Florida. Our popular culture has longstanding jokes about people voting from the grave, living in vacant lots and stuffing ballot boxes from the upper midwest to the Deep South going back to the earliest days of our democracy. However, the accuracy of the vote counted depends on the integrity of the system of guarding and accounting for those votes, and while jokes are made about the past, ballot-counting shenanigans are unacceptable in the 21st century.

G. Lack of Training of Poll Workers

Our system of voting depends heavily on the use of volunteers across the country. While elections are managed under the auspices of state and local boards of elections, in most jurisdictions the polling places themselves are run virtually exclusively by volunteers. There were numerous allegations in 2000 that polling place officials refused to answer questions from confused voters; told voters that there was nothing they could do if they made a mistake in casting their ballots; did not allow voters to access a sample ballot or machine; and did not allow voters to have assistance to which they are entitled under federal law. While it is possible that some of these allegations involved the deliberate giving of incorrect information, it is far more likely that the majority of these problems were caused not by malice of poll workers but because of lack of training and supervision.

H. Absentee Voting Irregularities

Absentee voting problems arose with respect to regular routine absent ballots as well as with the unique problem of military overseas ballots. There were allegations that voters who requested absentee ballots received more than one; that voters who requested absentee ballots but did not receive them were not allowed to vote when they showed up at the polls; that partisan representatives of political parties were allowed by local election officials to complete incompletely filled out absentee ballot envelopes; that absentee ballots were obtained on behalf of nursing home inhabitants that were then voided with the assistance of partisan local officials; and that absentee ballots not properly filled out were counted in some jurisdictions and disallowed

in others.

*433 In Florida, there was a particular issue with vast numbers of overseas military ballots. Under the terms of a consent decree with the Department of Justice, in Federal elections overseas military ballots must be counted if dated by the date of the election and received within a specified time period. [FN103] There were allegations after the election in Florida in particular that military ballots were counted even though they did not meet the technical requirements, such as the requirement that they be dated.

I. Accuracy of Tabulation and Uniform Standards

As a result of the recount in Florida in 2000, numerous articles and studies have now been written about the relative merits of different types of voting equipment. Accuracy issues are of two kinds: (1) whether the equipment accurately record and read the votes cast by each voter, and (2) whether the equipment correctly tabulate the votes cast. The Florida recounts focused attention on the differences between types of voting machines, their accuracy and the number of ballots routinely disqualified. Prior to the Florida recount it was not widely understood by the public that in any election there are numerous ballots that are disqualified and not counted in precincts across the country. Of course, in an election that is not close, disqualified ballots would not change the outcome of the election and, therefore, are of little concern. In a close election, they could. [FN104] Much of the legislative interest post November 2000 has been on ensuring that state and local governments obtain voting equipment that records accurately as many votes as possible and is as immune as possible from human error. The American public has now become familiar with overvotes, undervotes and other terms that previously were not household words.

In addition to machine failure or inability to accurately read votes cast, the aftermath of election 2000 also drew attention to the lack of uniform standards for counting votes. The Florida pregnant-chad/dimpled-chad debate illustrated the divergent standards (or lack of standards) applied from one precinct to another even within the same state.

J. Bush v. Gore

The opinion of the Supreme Court in Bush v. Gore. [FN105] suggests that states must develop uniform standards for fear of running afoul of equal protection under the Federal Constitution. The per curiam opinion of the Court stated that the Equal Protection Clause of the Fourteenth Amendment applies not only to the granting of the right to vote but also to the manner in *434 which the right to vote is exercised:

The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another. [FN106]

While the full significance of Bush v. Gore for state administration of elections will evolve over the next few election cycles, it is clear that more attention must be given on a statewide level to the conduct of elections at the local level. The per curiam opinion notes that the question of whether local entities within a State may develop different systems for implementing elections was not at issue in the case. [FN107] However, the Court's equal protection analysis suggests that where state officials confer authority on local officials the state may have a greater burden to ensure the equal application of its laws to voters. [FN108] It may no longer be sufficient to entrust local officials with the same level of discretion they have exercised in the past.

VII. States Should Act Now to Stop Bad Things from Happening to Voters in the Polls.

The states have the authority to regulate activity that is permitted in the polling places on election day, including regulations as to who is allowed in the polls, and to adopt rules to keep order in the polls. As noted above, nearly all of the states have used this authority to pass laws that proscribe vote fraud, and several states have laws that proscribe untoward actions by poll officials or others that deny or abridge peoples' right to vote without intimidation or interference. But the states have delegated to the counties the responsibility for conducting the election and maintaining order in the polls, and by doing so, the states have abdicated their responsibility for preventing bad things from happening to voters in the polls on election day.

The history of injuring voters through administrative action, as reflected in the federal voting rights cases, was one of state malfeasance, in the first instance. Then, when the states' rules and actions were enjoined, the states adopted legislation

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leaving it up to the counties to take the arbitrary actions that deprived people of their right to vote. This pattern continues today, as counties continue to deprive people of their voting rights by misusing the responsibility delegated by the states to conduct elections.

Moreover, deprivations of voting rights today transcend the racially based actions that soil our nation's history. The episodes that came to light in the wake of the presidential election in November 2000, and the United States Supreme Court's analysis of unequal application of administrative rules as violations of the Equal Protection Clause in *Bush v. Gore*, illustrate *435 that deprivations of voters' rights because of administrative malfeasance, disregard of the rules or a failure to apply rules equally to all voters and votes is unlawful. Since the states have the authority to set the rules for the conduct of elections, it is up to the states to remedy those deprivations.

The federal observer program as it is administered under the Voting Rights Act illustrates that government officials can design programs to anticipate where there will be an unequal application of state rules at the polls, and to direct remedies at those polling places where the problems are likely to occur. States can do likewise, and could devise even more effective programs to anticipate where voters may be deprived of their rights at the polls, given the states' closer proximity to their counties and more direct knowledge of the activities that occur during elections in the state. States already have much information about undervotes, overvotes and other instances where voters have been ineffective in casting their ballots, and can determine where voters are deprived of their rights at the polls. Once the identity of these polling places is established, state law should give state election officials the responsibility of contacting the county election officials to inform them of the nature of the problem at the polls and of the correct state election procedures. In instances where the county officials are unwilling or unable to take action to assure that the anticipated problems do not occur, state law should give state election directors authority to direct that correct procedures be used, and to use personnel directly responsible to the state officials in the polls in order to insure that state procedures are followed.

The Voting Rights Act does not give the federal observers or the U.S. Department of Justice authority to stop discriminatory action as it occurs. [FN112] But just the presence of disinterested third-party observers under the Voting Rights Act has the prophylactic effect of discouraging errant behavior in the polls, especially when those observers represent a government agency that is intent on ensuring correct behavior toward voters. The states can go much further, and confer on observers authority to inform polling place workers about correct state procedures, and to put state supervisory personnel in contact with county or polling place officials to direct them to follow state voting rules. If the Voting Section of the Department of Justice's Civil Rights Division can do such a fact-directed job from Washington, D.C. and can locate polling places where minority group voters are likely to be disadvantaged or at which there may be efforts to intimidate voters, surely the states, from a closer vantage point, with knowledge of their own procedures and familiarity with their own county election administrators, could do at least as effective a job. After all, the state rules are the ones that are to be followed, and it is their citizens and voters who will be victimized by their own officials.

If the states do not assume the responsibility for conducting effective *436 elections when the counties fail to do so, then the United States Congress should consider whether federal civil rights voting laws should be expanded to include the deprivations of voting rights at the polls because of administrative malfeasance, disregard of the rules, or a failure to apply rules equally to all voters and votes. At the same time, Congress should consider similarly expanding the unquestionably successful federal observer program.

Such legislation could be constitutionally based on the Equal Protection Clause rationale of *Bush v. Gore*. There is precedent for this approach in the Voting Rights Act itself. The Act initially was based on the Fifteenth Amendment. The Fifteenth Amendment's protections apply only to deprivations of the right to vote on the grounds of race, color or previous condition of servitude. When the Voting Rights Act was amended in 1975 to prohibit discrimination against language minority groups, the amended provisions were based on the Fourteenth Amendment as well as the Fifteenth Amendment in order to eliminate possible challenges to the new provisions on the grounds that the protected minority language people would not be found to be racial groups. [FN113]

Conclusion

The continuous deprivation of voting rights faced by United States citizens at election polls, coupled with the notoriety of those problems following the November 2000 presidential election, make it incumbent upon the states to use their authority to regulate the election process. States should to adopt procedures for: (1) determining where voters will face obstacles when casting effective ballots at the polls, and (2) interceding and remedying those obstacles in any county that fails or refuses to

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remedy them on its own. These procedures may follow the federal observer model or may a variation of other models. If states fail to discharge their responsibility, federal legislation should consider expanding the civil rights voting laws and the federal observer program in order to address such deprivation of voting rights.

Reform to correct voter discrimination has financial implications for the states, however. [FN111] For example, there is a widespread belief that voting technology across the country must be updated. This is costly, and federal action to provide funds is critical. But, even beyond the cost of voting machines, establishing an effective system for training election officials, monitoring elections and enforcing the laws will require a substantial commitment of resources by the states—a commitment they may be unable to make without federal financial assistance.

*437 Appendix A

NUMBER OF PERSONS LISTED BY FEDERAL EXAMINERS UNDER SECTION 7 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973c 1965-2000 [FN112]

State	Total People	Non-white People	White People
	Listed	Listed	Listed
Alabama [FN113]	66,539	61,239	5,300
Georgia [FN114]	3,557	3,541	16
Louisiana [FN115]	26,978	25,136	1,842
Mississippi [FN116]	70,448	67,685	2,763
South Carolina [FN117]	4,654	4,638	16
Total	172,176	162,239	9,937

*438 APPENDIX B ASSIGNMENT OF FEDERAL OBSERVERS UNDER SECTION 8 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973d BY YEAR AND STATE, 1966-2000 [FN113]
 TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

*440 Appendix C

EXCERPTS FROM PLAINTIFF'S RESPONSE TO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS, U.S. v. Conecuh County [FN130]

A white voter waiting in line to vote stated to white poll official John P. Bewley that she was unable to obtain a yellow sample ballot distributed by the Alabama Democratic Conference. The black voter standing next in line had such a ballot. Mr. Bewley stated, "You ain't [sic] of the right color." During the same day, Mr. Bewley stated to federal observer Riddle, "See, the niggers bring in these yellow marked ballots. The nigger preachers run the niggers down here, you know. They tell them how to vote. I don't think that's right." [FN121]

Poll officials instructed white registered voters to confirm their registration status in the office of the Probate Judge. Black voters whose names were not on the list were in each instance simply told that they could not vote, and were given no instruction by poll officials. White voter Salter's name did not appear on the list, and Ms. Salter acknowledged that she resided in a rural precinct and not in box 11-1. Ms. Salter nevertheless was allowed to vote an unchallenged ballot directly on the machine. [FN122]

Ms. Lewis, who required assistance because of a vision problem, signed the poll list and stated that she wished for her companion (unidentified) to provide assistance in voting for her. White poll official Windham stated, "Can't nobody go in there with you." After a pause, Mr. Windham stated to Ms. Lewis, "you can fill out an affidavit and then she can go in with you. Can't you [read]?" Mr. Windham's tone and manner were sufficiently abusive that Ms. Lewis left the voting place. Some moments later she was observed to remark to a companion, who was trying to persuade her to make another attempt to vote, "I've done had trouble with them twice before and I'm not begging them any more. I'm not scared but I'm not begging anybody." Ms. Lewis returned accompanied by Mr. Richard Rabb, at that time the Chair of the Conecuh county Branch of

the Alabama Democratic Conference. Ms. Lewis was allowed to vote, and the poll officials provided necessary assistance with the affidavit. Ms. Lewis remained very upset and remarked, "Why couldn't they have let me vote to begin with?" [FN123]

Black voters at box 9-1 (Old Town) were told throughout the day of the October 12, 1982 special run-off election, that no more than two voters were allowed in the polling place at one time. This *441 restriction was imposed on 30-35 occasions. In no instance were white voters required to conform to this procedure, and the poll officials allowed as many as five white voters in the polling place at a time. [FN124]

Ms. Stacey enforced the limitation on the amount of time a voter could spend in the booth in a random and discriminatory fashion. She enforced the limitation against black voters more frequently than against white voters. During the last hour of voting the requirement was applied exclusively against black persons. On at least two occasions she told black voters that their time had elapsed when, in fact, it had not. [FN125]

During the course of the day, poll officials addressed all black voters by their first names. Older white voters were addressed by the courtesy titles of Mr. and Ms. [FN126]

White poll official James Ellis initiated new procedures for assistance of black voters. Without notice to any person, Mr. Ellis required assistants accompanying voters into the polling place to remain 30 feet outside the polls until Mr. Ellis had finished interviewing the voter and summoned the assistant. [FN127]

Poll officials who assisted black voters did not read the ballot to the voters or otherwise advise the voters of the contests and the candidates. They simply asked the voters, "Who do you want to vote for?"

 Poll official Lois Stacey marked the ballot for a voter she was assisting in contests in which the voter did not express a preference.

Poll officials frequently served as assistants without asking voters receiving assistance who they wanted to assist them. On a number of occasions, poll officials serving as assistants did not read the complete ballot to the voters. [FN128]

*442 Appendix D

JURISDICTIONS CURRENTLY CERTIFIED FOR FEDERAL EXAMINERS UNDER SECTION 3(A) OF THE VOTING RIGHTS ACT [FN129]

State	Jurisdiction	Term of certification
Illinois	Town of Cicero	October 23, 2000 order, effective until December 31, 2005.
Louisiana	St. Landry Parish	December 5, 1979 order, effective "until further order of the court."
Michigan	City of Hamtramck	August 7, 2000 order, effective until December 31, 2003.
New Jersey	Passaic County	June 2, 1999 order, effective until December 31, 2003
New Mexico	Bernalillo County	April 27, 1998 order, effective until June 30, 2003.
	Cibola County	April 21, 1994 order, effective until April 21, 2004 (originally certified by December 17, 1984 order).
	Sandoval County	September 9, 1994 order, effective until at least

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September 9, 2004 (originally certified by
December 17, 1984 order).

Socorro County April 11, 1994 order, effective until April 11,
2004.

Utah San Juan County December 31, 1998 order, effective until December
31, 2002 (originally certified January 11, 1984
order)

*443 Appendix E
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*462 Appendix F

FEDERAL OBSERVER REPORT

Names of Federal Observers: Arrival Time Departure
Polling Site Name and Location: Ward and Election Districts (WD/ED):

I. SITE AND VOTING LOCATIONS

Describe any signs/outward indicators to locate the polling place:

Were signs bilingual? Yes ___ No ___

Describe any signs/outward indicators to locate the voting location inside the building: _____

Were signs bilingual? Yes ___ No ___

*463 II. TELEPHONE

Was a telephone available for use at the polling place? Yes ___ No ___

Where was it? _____

Did you observe election officials using the telephone at any time to contact election officials? If so, under what
circumstances?

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III. INITIAL SET-UP OF POLLING PLACE (For FIRST SITE only...one for each targeted ED)

WD/ED __ & score

What time did election officials arrive? ____

Did board members have a check list for availability and posting of bilingual materials? Yes ___ No ___

Did they remove all the materials from their supply pocket and review them?

Yes ___ No ___

Did the board members read the board etiquette certificate (pay stub) before signing? Yes ___ No ___

At what time was the ED open for voting? ____ If the ED was not ready for voters at the poll opening time, were any voters turned away? Yes ___ No ___

If yes, how many were turned away? ____

Additional observations during set-up:

*464 IV. CLOSURE OF POLLING PLACE (For LAST SITE only...one for each targeted ED)

WD/ED ____

What time did election officials begin shutting down? ____ What time was the voting machine shut down? ____

Did voters show up after the machines were shut down? Yes ___ No ___

If so, how many? ____ If so, were they allowed to vote? Yes ___ No ___ How?

What time did the polls close? ____ Were any persons in line? Yes ___ No ___ If yes, how many ____

Were all persons in line allowed to vote? Yes ___ No ___ If not, who prevented them from voting and what reasons if any, were given?

What time did election officials leave? ____

Additional observations during closing:

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***465 V. POLLING SITE OFFICIALS**

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***466 VI. DESCRIPTION OF POLLING PLACE**

Draw a diagram of the polling place that shows the following:

Location of voting machines or booths.

Location of tables for election officials for all E.D.'s (Identify electoral district number.)

Location of: (MB) Master Board Worker, (J) Judge, (I) Inspector, (M) Member, (T) Translator, (C) Challenger, (P) Police Officer, (Z) Investigator, (D) Deputy Attorney General, and Federal observers (O).

Location of telephone, if any.

Location of the provisional ballot bag (orange bag)

The route from the building entrance to voting site (describe if necessary)

Label the location of Spanish, and English language voting instructions, signs, or cards (Labeled by number (see pg. 6) and by language E = English, S = Spanish or B=Bilingual)

VII. BILINGUAL MATERIALS

WD/ED _____

Use the following table to indicate where the following are, circling which items were in English using (E), which were in Spanish using (S), and which were bilingual using (B).

	Where located?
ITEMS TYPICALLY ON WALLS, TABLES ETC.	
1) Sample voting machine ballot	E, S, B
2) Voter Rights Pamphlet	E, S, B
3) Vote Here/No Voter Turned Away sign	E, S, B
4) Board worker's name tags	N/A
5) Voter Complaint Forms Available Here table sign	E, S, B
6) Voter instructions sign	E, S, B
7) "Write in" instructions sign	E, S, B
8) Interpreter available sign	S
9) Passaic County Superintendent of Election Poll book	E

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- 10) Voter authority slips (booklet) B
- 11) Challenge forms (8 forms) E, S
- 12) Challenger Instructions sign E, S
- 13) Voter's complaint forms (2 forms) E, S
- 14) Provisional ballot instruction sign E, S, B

ITEMS TYPICALLY WITHIN BALLOT BOOTH

- 15) Instructions on what to do if assistance needed inside of voting booth E, S, B
- 16) Machine instructions (how to operate the machine) E, S, B
- 17) Voting strips (candidate names) E, S, B

ITEMS ACCESSIBLE TO BOARD WORKERS

- 18) Pre-addressed postage paid envelopes for complaint forms N/A
- 19) County polling place material checklist (for board worker's use) E
- 20) Affirmation of residency E, S, B
- 21) Provisional ballots E, S, B
- 22) 3 Simple steps to voting E, S, B

*468 VIII. CHART SUMMARY

1. LANGUAGE ASSISTANCE FROM CHART A

Did you observe any voters who received assistance in Spanish:

From bilingual board workers? Yes ___ No ___ How many? ___

From bilingual translators? Yes ___ No ___ How many? ___

From bilingual challengers? Yes ___ No ___ How many? ___

Number of disability certificates used? ___

2. PERSONS NOT RECEIVING LANGUAGE ASSISTANCE (Record specific instances on Chart B)

3. PERSONS VOTING WITHOUT ASSISTANCE BY PROVISIONAL OR EMERGENCY BALLOT (Record specific instances on Chart C)

Did you observe any voters who were not permitted to vote by machine? Yes ___ No ___

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If yes, how many? ___ Of those, how many were Hispanic? ___

a) Were they permitted to vote a provisional ballot? Yes ___ How many? ___ Of those, how many were Hispanic? ___ Explain the process, including what the board member did with the completed ballot:

b) Were they permitted to vote an emergency ballot? Yes ___ How many? ___ Of those, how many were Hispanic? ___ Explain the process, including what the board member did with the completed ballot

*469 VIII. CHART SUMMARY (Continued)

4. PERSONS NOT PERMITTED TO VOTE (Record specific instances on Chart D)

Did you observe any voters who were turned away and not permitted to vote? Yes ___ No ___

If yes, how many? ___ Of those, how many were Hispanic? ___ Explain the process:

5. PERSONS CHALLENGED (Record specific instances on Chart E)

Did you observe any voters being challenged? Yes ___ No ___

If yes, how many? ___ Of these, how many were Hispanic? ___

a) Were they permitted to vote? Yes ___ No ___ How many? ___ Of those, how many were Hispanic? ___ Explain the process, including what the board member did with the completed ballot:

b) Did the challenger complete a Challenger's affidavit for all persons challenged? Yes ___ No ___ If no, How many? ___ What were the races of each?

*470 IX. GENERAL QUESTIONS ON ASSISTANCE (Individual accounts of language assistance are to be recorded on Chart A)

1. Was Spanish language assistance available when you were present at the site?

Yes ___ No ___ If not, specify WD/ED, record time frames and circumstances.

2. Were there any voters who were unable to sign their names?

Yes ___ No ___

If yes, were they Spanish speaking? Yes ___ No ___ Were they offered assistance in casting their ballot? Yes ___ No ___

If so, in what language? ___ If no, explain: ___

3. Did you observe voters who verbally sought or appeared to have needed assistance but did not receive it? Yes ___ No ___ If yes, explain. Include WD/ED.

4. What was the average waiting time for assistance?

*471 5. Did anyone bring a personal assistor (i.e., a relative or a friend)? Yes ___ No ___ How many? ___

If yes, were voters allowed to take a personal assistor into the booth? Yes ___ No ___ If no, explain:

6. Were voters informed there was a time limit on how long a voter could take to cast the ballot?

Yes ___ No ___ If so, what was the time limit?

Was it enforced? Yes ___ No ___ If so, explain:

7. Were voters permitted to bring marked sample ballots or other election material into the voting booth?

Yes ___ No ___ If no, explain:

8. Based on your observation of assistance, for each ED, explain generally what happens to the voter who needs language assistance from the time they enter the polling place until they leave.

***472 X. TREATMENT OF HISPANIC VOTERS AND HISPANIC BOARD WORKERS**

1. Did you observe any Hispanic voter being treated rudely (describe the actual words used and actions taken) by a board worker or translator? Yes ___ No ___ If yes, please explain. Use additional sheets or back of paper if necessary. Please obtain the names and ward and district of Board Workers involved.

2. Did you observe any Hispanic and/or bilingual board worker being treated rudely by a board worker?

Yes ___ No ___ If yes, please obtain the names and ward and district of Board Workers involved.

XI. GENERAL

1. Describe any specific problems that occurred but are not recorded elsewhere in the report.

2. Describe the nature and extent of your contact with board workers, including any noteworthy contact. Please identify by name and election district, and explain.

***473 CHART AASSISTANCE IN A MINORITY LANGUAGE (CHECKLIST)(Purpose: record the assistance process) WD/ED ___**

Voter _____

Language spoken: _____

Time begin: ___ Time end: ___

Name of: board worker / translator / challenger: _____

Who initiated the contact? _____

In what language? _____

Assistance occurred: (circle) inside booth outside booth. Was a Disability Certificate Used? (circle one) Yes No

How was the ballot cast? (circle one) machine / provisional / emergency

If voted by provisional or emergency ballot, state reason for not being permitted to vote on the machine:

Did the official providing assistance (circle response):

ask if assistance was needed? YES / NO In English or Spanish?

ask voter for choice of assistor? YES / NO In English or Spanish?

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explain how to operate the machine? YES / NO in English or Spanish?

allow assistant into booth YES / NO in English or Spanish?

(English speaking board worker) play a role when the translator provided assistance? YES / NO in English or Spanish?

interpret each proposition on the ballot (if applicable)? YES / NO in English or Spanish?

name each candidate on the ballot? YES / NO in English or Spanish?

explain when the voter can vote for more than one

candidate for an office (if applicable)? YES / NO in English or Spanish?

*474 explain write-in procedures (if applicable)? YES / NO in English or Spanish?

offer a voter rights pamphlet? YES / NO in English or Spanish?

What else happened during this assistance not captured by the above questions?

CHART BVOTERS NOT RECEIVING LANGUAGE ASSISTANCE (Purpose: record information
 about voters who need language assistance but do not receive it) Name Race Time
 WD/ED

Address Language spoken

Did the voter request or ask for assistance? Yes / No

Did the voter appear to need assistance? Yes / No

If yes, state observations:

*475 CHART CVOTING WITHOUT ASSISTANCE (by Provisional or Emergency Ballot)
 (Purpose: record the provisional and emergency ballot process) (For race use:
 (A) for Asian, (B) for Black, (H) for Hispanic, (W) for White) Name Race Time
 WD/ED

Address Language spoken

How Voted (circle) Provisional Emergency

Reason for not being permitted to vote on machine:

*476 CHART DPERSONS NOT PERMITTED TO VOTE IN ANY MANNER (Purpose: record
 turn-aways) (For race use: (A) for Asian, (B) for Black, (H) for Hispanic, (W)
 for White) Name Time

Address Race

Language Spoken

Name/title of official not permitting vote WD/ED

Reason for not permitting vote

What did the official suggest the voter do in order to vote?

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Was the voter offered a provisional ballot? Yes / No

Reason voter believes he/she should be permitted to vote

Referred to Federal Examiner Yes / No

*477 CHART EPERSONS CHALLENGED(Purpose: record the challenge process) (For
 race use: (A) for Asian, (B) for Black, (H) for Hispanic, (W) for White) Name
 of Challenger (Race) Name of Voter (Race) Vote on Machine (Y or N) Reason for
 Challenge Did the challenger communicate directly with the voter? What was
 said? Treatment of voter?

WORK SHEET

(Questions to answer when you call to the command center or questions to be prepared to answer when you call into the
 command center)

1. Number of voters since initial or last call:

Time Total Number of Voters Of which the following were Hispanic

*478 How many voters needed assistance?

Type of assistance needed?

Provisional/Emergency voting?

Materials - available by WD/ED:

Bilingual Board Workers or Translators available by W/DED:

Any Master Board Workers, Challengers, Police, Plain Clothes Investigators, or Press present?

*479 Appendix G

Interference Laws

Alabama

Code of Alabama § 17-15-1. Grounds.

The election of any person declared elected to any office which is filled by the vote of a single county, or to the office of the
 said elections a qualified elector for any of the following causes - offers to bribe, bribery, intimidation or other misconduct
 calculated to prevent a fair free and full exercise of the elective franchise.

Code of Alabama § 17-23-1. Bribing or attempting to influence voter.

Any person who, by bribery or offering to bribe, or by any other corrupt means, attempts to influence any elector in giving
 his vote, or deter him from giving the same, or to disturb, or to hinder him in the free exercise of the right of suffrage, at any
 election, must, on conviction, be fined not less than \$50 nor more than \$500.

Code of Alabama § 17-23-8. Disturbing elector on election day.

Any person who, on election day, disturbs or prevents, or attempts to prevent, any elector from freely casting his ballot
 must, on conviction, be fined not less than \$500.00 nor more than \$1,000.00, and also sentenced to hard labor for the county,
 or imprisoned in the county jail for not less than six months nor more than one year.

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Alaska

Alaska Statute § 15.56.030. Unlawful interference with voting in the first degree.

A person commits the crime of unlawful interference with voting in the first degree if the person: 1) uses, threatens to use, or causes to be used force, coercion, violence, or restraint, or inflicts, threatens to inflict, or causes to be inflicted damage, harm, or loss, upon or against another person to induce or compel that person to vote or refrain from voting in an election; or 2) knowingly pays, offers to pay, or causes to be paid money or other valuable thing to a person to vote or refrain from voting in an election; or solicits, accepts, or agrees to accept money or other valuable thing with the intent to vote for or refrain from voting for a candidate at an election or for an election proposition or question.

* 480 Arizona

Arizona Revised Statute § 16-1013. Coercion or intimidation of elector, classification.

It is unlawful for a person knowingly: 1) Directly or indirectly, to make use of force, violence or restraint, or to inflict or threaten infliction, by himself or through any other person, of any injury, damage, harm or loss, or in any manner to practice intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting for a particular person or measure at any election provided by law, or on account of such person having voted or refrained from voting at an election. 2) By abduction, duress or any forcible or fraudulent device or contrivance whatever, to impede, prevent or otherwise interfere with the free exercise of the elective franchise of any voter, or to compel, induce or to prevail upon a voter either to cast or refrain from casting his vote at an election, or to cast or refrain from casting his vote for any particular person or measure at an election.

Arkansas

Arkansas Code of 1987 Annotated § 7-1-104. Miscellaneous felonies - penalties.

It shall be unlawful for any person to make any threat or attempt to intimidate any elector or the family, business, or profession of the elector, and it shall be unlawful to attempt to prevent any qualified elector from voting at any election.

California

California Election Code § 18540. Use of threats to influence voting.

Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years. Every person who hires or arranges for any other person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from *481 voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

Colorado

Colorado Revised Statute § 1-13-711. Interference with voter while voting.

Any person who interferes with any voter who is inside the immediate voting area or is making a ballot or operating a voting machine at any election provided by law is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

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Connecticut

Connecticut General Statute § 53-169. Dispersion of riotous assembly.

Disturbance of meetings and elections. Refusal to assist public officer. Breach of the peace; intimidation, libel. Indecent or harassing telephone calls. Disorderly conduct. False information concerning bombs. Loitering. Soliciting from occupants of vehicles.

Delaware

Delaware Code Annotated - 11 Del. C. § 1207. Improper influence; Class A misdemeanor.

A person is guilty of improper influence when the person threatens unlawful harm to any person with intent to influence the latter's decision, opinion, recommendation, vote or other exercise of discretion as a public servant party officer or voter

Delaware Code Annotated - 15 Del. C. § 5303. Civil remedy for interference with voting.

Whoever, being a duly qualified elector of this State according to the Constitution and laws thereof, is prevented from voting, or obstructed in his or her effort to vote at any election, by reason of any interference by any person or persons, or military power, or other power, exercising or attempting to exercise force, intimidation or threats, or requiring any qualifications or conditions unknown to such Constitution and laws, shall be deemed and taken to have suffered private damage and injury, and shall have civil remedy thereof, in the court of this State, by civil action against every person who promoted such interference, whether by active participation, or by advising, counseling, or in anywise encouraging the same.

*482 District of Columbia

D.C. Code § 1-1001.14. Corrupt election practices

Any person who shall register, or attempt to register, or vote or attempt to vote under the provisions of this subchapter and make any false representations as to his or her qualifications for registering or voting or for holding elective office, or be guilty of violating § 1-1001.07(a)(2)(D), § 1-1001.09, § 1-1001.13, or § 1-1001.14 or be guilty of bribery or intimidation of any voter at an election, or being registered, shall vote or attempt to vote more than once in any election so held, or shall purloin or secrete any of the votes cast in an election, or attempt to vote in an election held by a political party other than that to which he or she has declared himself or herself to be affiliated, or, if employed in the counting of votes in any election held pursuant to this subchapter, knowingly make a false report in regard thereto, and every candidate, person, or official of any political committee who shall knowingly make any expenditure or contribution in violation of Chapter 11 of this title, shall, upon conviction, be fined not more than \$10,000 or be imprisoned not more than 5 years, or both.

Florida

Florida Statutes § 104.0515. Voting rights; deprivation of, or interference with, prohibited; penalty.

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or not to vote as that person may choose, or for the purpose of causing such other person to vote for, or not vote for, any candidate for any office at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

Georgia

Official Code of Georgia Annotated § 21-2-566. Interference with primaries and elections generally.

Any person who uses or threatens violence to any poll officer or interrupts or improperly interferes with the execution of his or her duty; willfully blocks or attempts to block the avenue to the door of any polling place; uses or threatens violence to any elector to prevent him or her from voting.

*483 Hawaii

Hawaii Revised Statutes Annotated § 19-3. Election frauds.

Every person who, directly, personally or through another, makes use of, or threatens to make use of, any force, violence, or restraint; or inflicts or threatens to inflict any injury, damage, or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who by abduction, distress, or any device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the elective franchise.

Idaho

Idaho Code § 18-2313. Riotous conduct and interference with election.

Any person who willfully disturbs, or is guilty of any riotous conduct at or near, any election place or voting precinct, with intent to disturb the same, or interferes with the access of the electors to the polling place, or in any manner, with the free exercise of the election franchise of the voters, or any voter there assembled, or disturbs or interferes with the canvassing of the votes, or with the making of the returns, is guilty of a misdemeanor.

Illinois

Illinois Compiled Statutes Annotated § 10 ILCS 5/29-18. Conspiracy to prevent vote - liability.

Conspiracy to prevent vote--Liability. If 2 or more persons conspire to prevent by force, intimidation, threat, deception, forgery or bribery any person from registering to vote, or preventing any person lawfully entitled to vote from voting, or preventing any person from supporting or opposing, in a legal manner, the nomination or election of any person for public or political party office, or a proposition voted upon at any election, or to injure any person or such person's property on account of such vote, support or advocacy, and if one or more persons so conspiring do, attempt or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property or deprived of having or exercising any right, privilege or immunity secured by the Constitution or laws of the United States or the State of Illinois relating to the conduct of elections, voting, or the nomination or election of candidates for public or political party office, all persons engaged in such conspiracy shall be liable to the party injured or any person affected, in any action or proceeding for redress.

*484 Illinois Compiled Statutes Annotated, Illinois Const., Article 3 § 3. Elections.

All elections shall be free and equal. An election is free where the voters are exposed to no intimidation or improper influence and where each voter is allowed to cast his ballot as his own conscience dictates; elections are equal when the vote of each voter is equal in its influence upon the result to the vote of every other elector--where each ballot is as effective as every other ballot. *People ex rel. Elder v. Quilici*, 309 Ill. App. 466, 37 N.E.2d 492 (1941).

Indiana

Indiana Code Annotated § 3-14-3-18. Improper collateral acts or threats to influence voter's vote.

A person who, for the purpose of influencing a voter or candidate, seeks to enforce the payment of a debt by force or threat of force or damages the business or trade of the voter or candidate: commits a Class D felony.

Indiana Statutes Annotated § 3-14-3-4. Obstruction or interference with election officers or voters.

A person who knowingly obstructs or interferes with an election officer in the discharge of the officer's duty; or knowingly obstructs or interferes with a voter within 50 feet of the polls: commits a Class D felony.

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Iowa

Iowa Code § 49.107. Prohibited acts on election day.

Interrupting, hindering, or opposing any voter while in or approaching the polling place for the purpose of voting is prohibited on any election day.

Iowa Code § 72.27. Misconduct by election official.

A precinct election official who knowingly causes a voter to cast a vote contrary to the voter's intention or wishes; or changes any ballot, or in any way causes any vote to be recorded contrary to the intent of the person casting that vote; or refuses or rejects the vote of any qualified voter commits a serious misdemeanor.

Kansas

Kansas Statute Annotated § 23-2415. Intimidation of voters.

Intimidation of voters is intimidating, threatening, coercing or attempting to intimidate, threaten, or coerce any person for the purpose of interfering with the right of such person to vote or to vote as he may choose, or of causing such person to vote for, or not to vote for, any candidate for any office or question submitted at any election.

*485 Kentucky

Kentucky Revised Statutes Annotated § 119.155. Preventing voter from casting ballot--interfering with election.

Any person who unlawfully prevents or attempts to prevent any voter from casting his ballot, or intimidates or attempts to intimidate any voter so as to prevent him from casting his ballot, or who unlawfully interferes with the election officers in the discharge of their duties, shall be guilty of a Class D felony. Any person who, by himself or in aid of others, forcibly breaks up or prevents, or attempts to break up or prevent, or obstructs or attempts to obstruct, the lawful holding of an election, shall be guilty of a Class A misdemeanor.

Louisiana

Louisiana Statutes § 14:119. Bribery of voters.

Bribery of voters is the giving or offering to give, directly or indirectly, any money, or anything of apparent present or prospective value to any voter at any general, primary, or special election, or at any convention of a recognized political party, with the intent to influence the voter in the casting of his ballot. The acceptance of, or the offer to accept, directly or indirectly, any money, or anything of apparent present or prospective value, by any such voters under such circumstances shall also constitute bribery of voters. Whoever commits the crime of bribery of voters shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both, for the first offense. On a second offense, or any succeeding offense, the penalty shall be a fine of not more than five thousand dollars or imprisonment at hard labor for not more than five years, or both.

Louisiana Statutes § 18:1462. Acts prohibited on election day; electioneering; exception; enforcement; penalty.

The Legislature of Louisiana recognizes that the right to vote is a right that is essential to the effective operation of a democratic government. Due to a past, longstanding history of election problems, such as multiple voting, votes being recorded for persons who did not vote, votes being recorded for deceased persons, voting by non-residents, vote buying, and voter intimidation, the legislature finds that the state has a compelling interest in securing a person's right to vote in an environment which is free from intimidation, harassment, confusion, obstruction, and undue influence. The legislature, therefore, enacts this Subsection to provide for a six hundred foot campaign-free zone around polling places to provide to each voter such an environment in which to exercise his right to vote. Except as otherwise specifically provided by law, it shall be unlawful for any person, between the hours of 6:00 a.m. and 9:00 p.m., to perform or cause to be performed any of the following acts within any polling place being used in an election on election day or within any place wherein absence

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voting is being conducted. *486 or within a radius of six hundred feet of the entrance to any polling place being used in an election on election day or any place wherein absentee voting is being conducted.

Louisiana Revised Statutes § 47:1405. Secrecy of ballot, interference with voter, penalty.

No person shall interfere or attempt to interfere with any voter when marking his ballot, or endeavor to induce any voter before voting to show how he is about to mark or has marked his ballot, or influence or attempt to influence any voter to vote for or against a particular candidate, or otherwise violate any of the provisions of this Chapter or rules adopted pursuant thereto. Whoever violates this Section shall be punished in accordance with R.S. 18:1461, R.S. 14:119, R.S. 14:120, R.S. 14:136, or any other applicable law enacted to punish violations of laws relating to other elections.

Louisiana Revised Statutes § 18:1451. Election Offenses: penalties.

No person shall knowingly, willfully, or intentionally: 1) Offer, promise, solicit, or accept money or anything of present or prospective value to secure or influence a vote or registration of a person. 2) Intimidate, directly or indirectly, any voter or prospective voter in matters concerning voting or nonvoting or registration or nonregistration. 3) Offer money or anything of present or prospective value or use, directly or indirectly, any form of intimidation to influence the action or encourage inaction of any public official with regard to the duties of his office or to influence a commissioner or watcher in his decision to serve or not to serve as such or in the performance of his duties on election day. Whoever violates any provision of this Section shall be fined not more than one thousand dollars or be imprisoned for not more than one year, or both. On a second offense, or any succeeding offense, the penalty shall be a fine of not more than two thousand five hundred dollars or imprisonment for not more than five years, or both.

Maine

Maine Revised Statutes - 21-A, M. R. S. § 674. Violations and penalties

A person commits a Class E crime if that person interferes with a voter attempting to cast a vote or interferes with or attempts to influence a voter in marking that voter's ballot.

Maryland

Maryland Annotated Code, Article 33, § 16-201. Offenses relating to voting.

Generally, a person may not willfully and knowingly influence or attempt to influence a voter's voting decision through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward.

*487 Maryland Annotated Code Article 33 § 16-101. Offenses relating to registration.

Generally, a person may not willfully and knowingly prevent, hinder, or delay a person having a lawful right to register from registering, through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward.

Massachusetts

Massachusetts Annotated Laws Chapter 56, § 29. Interfering with voter.

Whoever willfully and without lawful authority hinders, delays or interferes with, or aids in hindering, delaying or interfering with, a voter while on his way to a primary, caucus or election, while within the guard rail, while marking his ballot or while voting or attempting to vote, or endeavors to induce a voter, before depositing his ballot, to disclose how he marks or has marked it, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year.

Massachusetts Annotated Laws Chapter 56, § 30. Willfully obstructing voting.

Whoever willfully obstructs the voting at a primary, caucus or election shall be punished by a fine of not more than one

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hundred dollars.

Massachusetts Annotated Laws - Chapter 56, § 31. Illegal Challenging. Any person challenging a qualified voter for purposes of intimidation, or of ascertaining how he voted, or for any other illegal purpose shall be punished by a fine of not more than one hundred dollars.

Michigan

Michigan Compiled Laws Service § 168.931. Prohibited conduct; violation as misdemeanor; "valuable consideration."

A person is guilty of a misdemeanor if that person either directly or indirectly, discharge or threaten to discharge an employe of the person for the purpose of influencing the employe's vote at an election.

Michigan Compiled Laws Service § 168.932. Prohibited conduct; violation as felony.

A person shall not attempt, by means of bribery, menace, or other corrupt means or device, either directly or indirectly, to influence an elector in giving his or her vote, or to deter the elector from, or interrupt the elector in giving his or her vote at any election held in this state is guilty of a felony.

*488 Minnesota

Minnesota Statutes § 62A.72. Interference with use of public property.

For the purpose of protecting the free, proper and lawful access to, egress from and proper use of public property, and for the purpose of protecting the conduct of public business therein or thereon, free from interference, or disruption or the threat thereof, the legislature or any public officer, agency or board having the supervision thereof may to that end promulgate reasonable rules and regulations. Whoever, intentionally, or through coercion, force or intimidation, denies or interferes with the lawful right of another to the free access to or egress from or to use or remain in or upon public property or in like manner interferes with the transaction of public business therein or thereon may be sentenced to imprisonment for not more than one year or a fine of not more than \$3,000 or both.

Minnesota Statute § 204C.06. Conduct in and near polling places.

Lingering near polling place. An individual shall be allowed to go to and from the polling place for the purpose of voting without unlawful interference. No one except an election official or an individual who is waiting to register or to vote shall stand within 100 feet of the entrance to a polling place. The entrance to a polling place is the doorway or point of entry leading into the room or area where voting is occurring. A violation of this subdivision is a gross misdemeanor.

Minnesota Statute § 211B.07. Undue influence on voters prohibited.

A person may not directly or indirectly use or threaten force, coercion, violence, restraint, damage, harm, loss, including loss of employment or economic reprisal, undue influence, or temporal or spiritual injury against an individual to compel the individual to vote for or against a candidate or ballot question. Abduction, duress, or fraud may not be used to obstruct or prevent the free exercise of the right to vote of a voter at a primary or election, or compel a voter to vote at a primary or election. Violation of this section is a gross misdemeanor.

Mississippi

Mississippi Code Annotated § 23-17-59. Unlawful to interfere with or influence vote of elector.

It is unlawful for a person to interfere with or influence the vote of an elector on a measure by means of violence, threats, intimidation, enforcing the payment of a debt, bring a suit or criminal prosecution, any threat or action affecting a person's conditions of employment other corrupt means.

*489 Mississippi Code Annotated § 97-3-97. Threats and intimidation; whitecapping.

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Any person or persons who shall, by placards, or other writing, or verbally, attempt by threats, direct or implied, of injury to the person or property of another, to intimidate such other person into an abandonment or change of home or employment, shall upon conviction, be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or in the penitentiary not exceeding five years, as the court, in its discretion may determine.

Mississippi Code Annotated § 27-1-1. Conspiracy.

If two or more persons conspire either to prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use of employment thereof, or to overthrow or violate the laws of this state through force, violence, threats, intimidation, or otherwise;

Missouri

Revised Statutes of the State of Missouri § 155.639 Three hours off work to vote--interference by employer a class four offense.

Any person entitled to vote at any election held within this state shall, on the day of such election, be entitled to absent himself from any services or employment in which he is then engaged or employed, for a period of three hours between the time of opening and the time of closing the polls for the purpose of voting, and any such absence for such purpose shall not be reason for the discharge of or the threat to discharge any such person from such services or employment, and such employee, if he votes, shall not, because of so absents himself, be liable to any penalty or discipline, nor shall any deduction be made on account of such absence from his usual salary or wages; provided, however, that request shall be made for such leave of absence prior to the day of election, and provided further, that this section shall not apply to a voter on the day of election if there are three successive hours while the polls are open in which he is not in the service of his employer. The employer may specify any three hours between the time of opening and the time of closing the polls during which such employee may absent himself.

Revised Statutes of the State of Missouri § 155.115. Polling places, how designated, exception--notice to voters--voters not required to go to more than one polling place--elderly and handicapped polling places, common site.

Each election within its jurisdiction, the election authority shall designate a polling place for each precinct within which any voter is entitled to vote at the election. No person shall be required to go to more than one polling place to vote on the same day. Each local election authority may *490 designate one common site as an election day polling place designed for accessibility to the handicapped and elderly. In addition to being able to supply such voters with their appropriate ballots, and being open during regular voting hours, such a polling place shall otherwise be staffed and operated in accordance with law.

Montana

Montana Code Annotated § 45-7-102. Threats and other improper influence in official and political matters.

A person commits an offense under this section if the person purposely or knowingly threatens harm to any person, the person's spouse, child, parent, or sibling, or the person's property with the purpose to influence the person's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter.

Montana Code Annotated § 13-35-218. Coercion or undue influence of voters.

No person, directly or indirectly, by himself or any other person in his behalf, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue before the people, may use or threat to use any force, coercion, violence, restraint, or undue influence against any person; or inflict or threaten to inflict, by himself or any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person.

Nebraska

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Revised Statutes of Nebraska Annotated § 32-1510. Interference with voter registration; penalty.

Any person who causes any breach of the peace or uses any disorderly violence or threat of violence which impedes or hinders any registration of voters or revision of voter registration lists or interferes lawful proceedings of any deputy registrar shall be guilty of a Class 3 misdemeanor.

Revised Statutes of Nebraska Annotated § 32-910. Polling places: obstructions prohibited; restrictions on access.

Any judge or clerk of election, precinct or district inspector, sheriff, or other peace officer shall clear the passageways and prevent obstruction of the doors or entries and provide free ingress to and egress from the polling place building and shall arrest any person obstructing such passageways.

*491 Nevada

Nevada Revised Statutes Annotated § 293.710 Intimidation of voters.

It is unlawful for any person, in connection with any election or petition, whether acting himself or through another person in his behalf, to: (a) Use or threaten to use any force, coercion, violence, restraint or undue influence; (b) Inflict or threaten to inflict any physical or mental injury, damage, harm or loss upon the person or property of another.

New Hampshire

New Hampshire Revised Statutes Annotated § 354-A:11 Interference, Coercion or Intimidation.

It shall be an unlawful discriminatory act to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.

New Hampshire Revised Statutes Annotated § 659:40 Bribing; Intimidation.

No person shall directly or indirectly bribe or intimidate any voter not to vote or to vote for or against any question submitted to voters or to vote for or against any ticket or candidate for office at any election. Whoever violates the provisions of this section shall be guilty as provided in RSA 640:2 or RSA 640:3.

New Jersey

New Jersey Statutes § 19:34-29. Obstructing or interfering with voter.

No person shall by abduction, duress or any forcible or fraudulent device or contrivance whatever, impede, prevent or otherwise interfere with the free exercise of the elective franchise by any voter, or compel, induce or prevail upon any voter either to vote or refrain from voting at any election, or to vote or refrain from voting for any particular person or persons at any election.

New Jersey Statutes § 19:34-5. Interference with conduct of election.

No person shall, during an election, with intent to hinder or delay same, or to hinder or delay any voter in the preparation of his ballot, remove or destroy any of the ballots or pencils placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot. Any person willfully violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by fine not exceeding five hundred dollars and imprisonment until such fine and the costs of the conviction are paid.

*492 New Mexico

New Mexico Statutes Annotated § 1-20-14. Intimidation.

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Intimidation consists of including or attempting to induce fear in any member of a precinct board, voter, challenger or watcher by use of or threatened use of force, violence, infliction of damage, harm or loss or any form of economic retaliation, upon any voter, precinct board member, challenger or watcher for the purpose of impeding or preventing the free exercise of the elective franchise or the impartial administration of the Election Code. Whoever commits intimidation is guilty of a fourth degree felony.

New York

New York Consolidated Laws Service § 17-150. Duress and intimidation of voters.

Any person or corporation who directly or indirectly: 1) Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or, 2) By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or.

North Carolina

North Carolina General Statutes § 163-271. Intimidation of voters by officers made misdemeanor.

It shall be unlawful for any person holding any office, position, or employment in the State government, or under and with any department, institution, bureau, board, commission, or other State agency, or under and with any county, city, town, district, or other political subdivision, directly or indirectly, to discharge, threaten to discharge, or cause to be discharged, or otherwise intimidate or oppress any other person in such employment on account of any vote such voter or any member of his family may cast, or consider or intend to cast, or not to cast, or which he may have failed to cast, *493 or to seek or undertake to control any vote which any subordinate of such person may cast, or consider or intend to cast, or not to cast, by threat, intimidation, or declaration that the position, salary, or any part of the salary of such subordinate depends in any manner whatsoever, directly or indirectly, upon the way in which subordinate or any member of his family casts, or considers or intends to cast, or not to cast his vote, at any primary or election. A violation of this section is a Class 2 misdemeanor.

North Carolina General Statutes § 163-273. Offenses of voters; interference with voters; penalty.

Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful: 1) For any person to interfere with, or attempt to interfere with, any voter when inside the voting enclosure. 2) For any person to interfere with, or attempt to interfere with, any voter when marking his ballots.

North Dakota

North Dakota Century Code § 12.1-14-02. Interference with elections A person is guilty of a class A misdemeanor if, whether or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally: 1) Injures, intimidates, or interferes with another because he is or has been voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election. 2) Injures, intimidates, or interferes with another in order to prevent him or any other person from voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election.

Ohio

Ohio Revised Code Annotated § 1599.24. Interference with conduct of election.

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No person shall attempt to intimidate an election officer, or prevent an election official from performing the official duties.

Oklahoma

Oklahoma Statutes - 26 Okl. St. § 16-113. Interference with voter or conduct of election

Any person who interferes with a registered voter who is attempting to *494 vote, or any person who attempts to influence the vote of another by means of force or intimidation, or any person who interferes with the orderly and lawful conduct of an election shall be deemed guilty of a misdemeanor.

Oregon

Oregon House Bill 2584. Relating to elections.

No person shall obstruct an entrance of a building in which a polling place is located.

Pennsylvania

Pennsylvania Statutes - 25 P.S. § 3527. Interference with primaries and elections; frauds; conspiracy.

If any person shall prevent or attempt to prevent any election officers from holding any primary or election, under the provisions of this act, or shall use or threaten any violence to any such officer; or shall interrupt or improperly interfere with him in the execution of his duty; or shall block up or attempt to block up the avenue to the door of any polling place; or shall use or practice any intimidation, threats, force or violence with design to influence unduly or overawe any elector, or to prevent him from voting or restrain his freedom of choice; or shall prepare or present to any election officer a fraudulent voter's certificate not signed in the polling place by the elector whose certificate it purports to be; or shall deposit fraudulent ballots in the ballot box; or shall register fraudulent votes upon any voting machine; or shall tamper with any district register, voting check list, numbered lists of voters, ballot box or voting machine; or shall conspire with others to commit any of the offenses herein mentioned, or in any manner to prevent a free and fair primary or election, he shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$15,000 or to undergo an imprisonment of not more than seven years, or both, in the discretion of the court.

Pennsylvania Statutes- 75 P.S. § 3047. Peace Officers; no police officer to be within one hundred feet of polling place, exceptions; presence of soldiers prohibited.

In no event may any police officer unlawfully use or practice any intimidation, threats, force or violence nor, in any manner, unduly influence or overawe any elector or prevent him from voting or restrain his freedom of choice, nor may any such police officer electioneer or directly or indirectly attempt to influence the election or electors while within one hundred feet of a polling place.

*495 Rhode Island

Rhode Island General Laws § 17-23-5. Bribery or intimidation of voters - immunity of witnesses in bribery trials.

Every person who directly or indirectly gives, or offers to agree to give, to any elector or to any person for the benefit of any elector, any sum of money or other valuable consideration for the purpose of inducing the elector to give in or withhold that elector's vote at any election in this state, or by way of reward for having voted or withheld that elector's vote, or who uses any threat or employs any means of intimidation for the purpose of influencing the elector to vote or withhold that elector's vote for or against any candidate or candidates or proposition pending at an election, shall be guilty of a felony, and no person after conviction of this offense shall be permitted to vote in any election or upon any proposition pending before the people, or to hold any public office, and no evidence given by any witness testifying upon the trial of any charge of bribery may be used against the person giving the evidence.

South Carolina

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South Carolina Code Annotated § 16-17-560. Assault or intimidation on account of political opinions or exercise of civil rights.

It is unlawful for a person to assault or intimidate a citizen, discharge a citizen from employment or occupation, or eject a citizen from a rented house, land, or other property because of political opinions or the exercise of political rights and privileges guaranteed to every citizen by the Constitution and laws of the United States or by the Constitution and laws of this State. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both.

South Carolina Code Annotated § 7-13-130. Managers' table; guardrail; general arrangement; preservation of right to vote and secrecy of ballot.

The polling places shall be provided with a table for the managers. The polls shall be provided with a guardrail, so that no one except as herein authorized shall approach nearer than five feet to the booths in which the voters are preparing their ballots. The managers at each voting place shall arrange the table, desk or other place upon which the ballot boxes shall be placed so that there shall be no crowding or confusion immediately around the boxes, and suitable means shall be provided to enable each voter to approach the boxes and deposit his ballot without interference or hindrance. The right to vote of each person so entitled and the secrecy of the ballot shall be preserved at all times.

*496 South Carolina Code Annotated § 7-13-140. Maintenance of order; police powers of managers.

Managers of election are clothed with such police powers as may be necessary to carry out the provisions of this article. The managers shall possess full authority to maintain good order at the polls and to enforce obedience to their lawful commands during an election and during the canvass and counting of the votes. All peace officers shall answer all such calls for help in preserving the peace as may be made by the managers of election.

South Carolina Code Annotated § 7-13-150. Penalty for failure to assist in maintaining order.

Any person who, when summoned or called upon by peace officers shall fail or refuse to assist him in maintaining the peace and good order at the polls shall be fined in a sum not to exceed one hundred dollars or imprisoned not to exceed thirty days.

South Carolina Code Annotated § 7-13-160. Peace officers shall enter polling place only on request or to vote.

No sheriff, deputy sheriff, policeman or other officers shall be allowed to come within the polling place except to vote unless summoned into it by a majority of the managers. On failure of any sheriff, deputy sheriff, policeman or other officer to comply with the provisions of the preceding sentence, the managers of election, or one of them, shall make affidavit against such sheriff, deputy sheriff, policeman or other officer for his arrest.

South Carolina Code Annotated § 7-13-170. Procedure when managers fail to attend, take charge of, or conduct election.

In case all of the managers shall fail to attend at the same time and place appointed for holding such poll or shall refuse or fail to act or in case no manager has been appointed for such poll, it shall be lawful for the voters present at the precinct voting place on that day to appoint from among the qualified voters of such precinct or club the managers to act as managers in the place and stead of the absent managers, and any one of the managers so appointed shall administer the oath to the other managers. But if the duly appointed managers attend in a reasonable time, they shall take charge of and conduct the election.

South Dakota

South Dakota Codified Laws § 17-18-3. Electioneering, offices, communications centers, and polling prohibited near polling place - violation as misdemeanor.

No person may engage in any practice which interferes with the voter's free access to the polls or disrupts the administration of the polling place, or conduct, on the day of an election, any exit poll or public opinion with voters *497 within 100 feet of a polling place.

Tennessee

Tennessee Code Annotated § 2-7-111. Posting of sample ballots and instructions - arrangement of polling place - restrictions.

The exercise of free speech rights conflicts with another fundamental right, the right to cast a ballot in an election free from the taint of intimidation and fraud.

Tennessee Code Annotated § 2-7-109. Polling places.

The case law of this state recognizes that statutory violations alone may be sufficient to invalidate an election, especially where they thwart those statutory provisions design to prevent undue influence or intimidation of the free and fair expression of the will of the electors.

Texas

Texas Election Code § 2.054. Coercion Against Candidacy Prohibited.

A person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to not file an application for a place on the ballot or a declaration of write-in candidacy in an election that may be subject to this subchapter. In this section, 'coercion' has the meaning assigned by Section 1.07, Penal Code. An offense under this section is a Class A misdemeanor unless the intimidation or coercion is a threat to commit a felony, in which event it is a felony of the third degree.

Utah

Utah Code Annotated § 20A-1-501. Polling place - prohibited activities.

A person may not obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

Vermont

Vermont Statutes Annotated § 2508. Campaigning during polling hours; voter access.

On the walks and driveways leading to a building in which a polling place is located, no candidate or other person may physically interfere with the progress of a voter to and from the polling place.

*498 Virginia

Virginia Code Annotated § 14.2-507. Prohibited conduct; intimidation of voters; disturbance of election; how prevented; penalties.

It shall be unlawful for any person to hinder, intimidate, or interfere with any qualified voter so as to prevent the voter from casting a secret ballot. The officers of election may order a person violating this subsection to cease such action. If such person does not promptly desist, the officers of election, or a majority of them, may order the arrest of such person by any person authorized by law to make arrests, and, by their warrant, may commit him to the county or city jail, as the case may be, for a period not exceeding twenty-four hours. Any person violating this subsection shall be guilty of a Class 1 misdemeanor.

Washington

Revised Code of Washington § 29.51.020. Acts prohibited in vicinity of polling place - prohibited practices as to ballots - penalty.

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No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place. Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction, and may arrest any person creating such obstruction.

West Virginia

West Virginia Code § 3-9-10. Disorder at polls; prevention; failure to assist in preventing disorder; penalties.

Any person who shall, by force, menace, fraud or intimidation, prevent or attempt to prevent any officer whose duty it is by law to assist in holding an election, or in counting the votes cast thereat, and certifying and returning the result thereof, from discharging his duties according to law; or who shall, by violence, threatening gestures, speeches, force, menace or intimidation, prevent or attempt to prevent an election being held; or who shall in any manner obstruct or attempt to obstruct the holding of an election, or who shall, by any manner of force, fraud, menace or intimidation, prevent or attempt to prevent any voter from attending any election, or from freely exercising his right of suffrage at any election at which he is entitled to vote, shall be guilty of a misdemeanor, and, upon conviction, fined not more than one thousand dollars, or confined in the county jail for not more than one year, or both, in the discretion of the court.

Any person who, being thereto commanded by the commissioners of election, or either of them, shall fail or refuse to assist to the utmost of his power, in whatever may be necessary or proper to prevent intimidation, disorder or violence at the polls, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than one hundred dollars.

Wisconsin

Wisconsin Statutes § 5.33. Polling place requirements.

No polling place may be situated so as to interfere with or distract election officials from carrying out their duties. The municipal clerk and election inspectors shall prevent interference with and distraction of electors at polling places.

Wyoming

Wyoming Statutes Annotated § 22-15-109. Poll watchers; certification; qualification; authority; removal.

Additional poll watcher from each political party may be accommodated in the polling premises without disrupting the polling process. A poll watcher is authorized to observe voter turn out and registration and may make written memoranda but shall not challenge voters, conduct electioneering activities or disrupt the polling process. The chief judge may remove a poll watcher from the polling premises for disturbing the polling place, or for any other violation of the Election Code.

In Note: Barry H. Weinberg is a consultant and frequent speaker here and abroad on U.S. and international voting laws. He is the former Deputy Chief of the Voting Section in the U.S. Department of Justice's Civil Rights Division where he supervised numerous lawsuits to enforce the Voting Rights Act, the initial litigation establishing the constitutionality of the National Voter Registration Act of 1993, and other actions. For most of his 33 year tenure at the Justice Department Mr. Weinberg was in charge of the federal observer program under the Voting Rights Act. Lyn Utrocha is a partner at Ryan, Phillips, Utrecht & MacKinnon where she practices election law, representing Members of Congress, candidates, committees, labor organizations, corporations and others in federal and state campaign finance, election law, lobbying regulation and ethics. She is a former Special Assistant General Counsel at the Federal Election Commission, and has served as counsel to numerous candidates, including the presidential campaigns of former Vice President Walter Mondale in 1984, Senator Tom Harkin in 1992, President Clinton in 1996, and Vice President Gore in 2000. She serves on the election law subcommittee of the ABA Administrative Law Division and was recently appointed to a three-year term on the ABA Standing Committee on Election Law. The authors acknowledge and greatly appreciate the assistance of Sara Moskowitz and Kim Goodwin in the research and preparation of this article, and the assistance of Ariel Moyer in its final assembly.

FN11. "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." U.S. Const. amend. XV, § 1.

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[FN2]. 42 U.S.C. § 1973 et seq. (2001).

[FN3]. "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but Congress may at any time by Law make or alter such Regulations, except as to the Place of Choosing Senators." U.S. Const. art. I, § 4.

[FN4]. "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

[FN5]. See e.g. National Voter Registration Act of 1993, 42 U.S.C. § 1973gg et seq.; Voting Accessibility Act of 1984, 42 U.S.C. § 1973cc et seq.; Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff et seq.

[FN6]. The goal of voter registration was disenfranchisement of blacks and new immigrants. See e.g. Frances Piven & Richard Cloward, *Why Americans Don't Vote 78-95* (Pantheon Books 1988); Mark Thomas Quinlivan, *One Person, One Vote Revisited: The Inevitable Necessity of Judicial Intervention in the Realm of Voter Registration*, 137 *U. Pa. L. Rev.* 2361 (1989).

[FN7]. 238 U.S. 347 (1915).

[FN8]. 307 U.S. 268 (1939).

[FN9]. 273 U.S. 536 (1927).

[FN10]. 371 U.S. 649 (1944).

[FN11]. 345 U.S. 461 (1953).

[FN12]. See *U.S. v. Alabama*, 252 F. Supp. 95, 99 (M.D. Ala. 1966) (stating that "the effect of the new suffrage provisions in the 1901 Constitution on the Negro voters was dramatic"); see *Hanser v. Virginia Board of Elections*, 383 U.S. 663, 666 (1966).

[FN13]. See *U.S. v. Louisiana*, 380 U.S. 145 (1965); *Davis v. Schnell*, 81 F. Supp. 872 (S.D. Ala. 1949), aff'd 356 U.S. 933 (1949).

[FN14]. *Louisiana*, 380 U.S. at 151 (holding that the "provisions of the Louisiana Constitution and statutes which require voters to satisfy registrars of their ability to 'understand and give a reasonable interpretation of any section' of the Federal or Louisiana Constitution violate the Constitution.")

[FN15]. 42 U.S.C. § 1971(a)(4).

[FN16]. 42 U.S.C. § 1971(c).

[FN17]. Congress has the authority to enact procedures for elections for federal office. See U.S. Const. art. I, § 4. See also United States General Accounting Office, *Elections--The Scope of Congressional Authority in Election Administration*, 2101 *GAO* 250476 (Mar. 13, 2001) (the General Accounting Office providing an overview of federal law in this area).

[FN18]. 42 U.S.C. § 1971(c). These provisions:

- Posited a rebuttable presumption that people were literate who finished the sixth grade;
- Declared that actions by state or local officials were state action;
- Allowed courts to make pattern or practice findings and thereafter issue declarations that "any person of such race or color within the affected area" was qualified to vote if certain minimal facts were presented;
- Stated that such persons must be permitted to vote in any election.

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- Established court-appointed voting referees who could receive applications for an order that people were qualified to vote and had been deprived of the opportunity to register under color of law, take evidence, and report to the court whether the applicant was qualified to vote. This was followed by a show-cause order within 10 days on why an order should not be entered in accordance with the report; there would be a hearing only if there were genuine issues of material fact; and
- Allowed for three-judge courts if a finding of a pattern or practice of discrimination was requested.

[FN19]. Many, as probate judge or circuit clerk, were the highest administrative county official.

[FN20]. *South Carolina v. Katzenbach*, 383 U.S. 301, 314 (1966) (stating that "[v]oting suits are unusually onerous to prepare, sometimes requiring as many as 6,000 manhours spent combing through registration records in preparation for trial").

[FN21]. *Id.* at 313.

[FN22]. *Id.* at 328.

[FN23]. 42 U.S.C. § 1973c.

[FN24]. 42 U.S.C. § 1973b. These "tests or devices" were suspended in states and counties determined by a formula in Section 4 of the Voting Rights Act based on the use of literacy tests and other pre-application devices (such as having current voters vouch for your good moral character), and low voter turnout. See 42 U.S.C. § 1973b. Later, this provision was made permanent and nationwide. See 42 U.S.C. § 1973ag. Originally, states and counties covered under the formula could terminate their special coverage ("bail out") after five years by showing, in a lawsuit before a three-judge court in the federal district court for the District of Columbia, that no test or device had been used to deprive anyone of the right to vote during that period. See 42 U.S.C. § 1973b. Since the Act itself suspended those tests or devices for only five years, it was thought that it would be relatively simple for states and counties who complied with the suspension to bail out after the 5-year period. In 1970, the time period was extended to 10 years; in 1975, it was extended to 17 years. In 1982, the approach changed to terminate the special coverage at the end of 25 years following the effective date of the 1982 amendments. See 42 U.S.C. § 1973b(a)(9). In 1982, the bail-out provisions were amended substantially to allow individual counties within a fully covered state to bail out and to set out a number of specific qualifications that a jurisdiction needs to meet in order to bail out. See 42 U.S.C. § 1973b(b)(1)-(3).

[FN25]. 42 U.S.C. § 1973d.

[FN26]. 47 U.S.C. § 1973e.

[FN27]. The examiners are commonly referred to as federal registrars. These were people appointed by the head of the Civil Service Commission, now the Office of Personnel Management, to examine voter applicants as to their qualifications under those portions of state law that were valid under the U.S. Constitution and laws. If the applicants satisfied the state requirements, their names were put on a list that was given to the county registrar, who then had to add them to the county voter registration rolls. In this way, some semblance of state authority over the voter registration process was preserved: registrants satisfied state requirements and a state-authorized official put the voters' names on the rolls. To safeguard against discriminatory purges of those newly enfranchised voters, their names cannot be purged from the voter rolls without the approval of the Office of Personnel Management. 42 U.S.C. § 1973c(b)(4).

[FN28]. See Appendix A for the number of people, by state, registered by federal examiners.

[FN29]. 42 U.S.C. § 1973f. The Act originally named the Director of the Civil Service Commission, which later became the Office of Personnel Management.

[FN30]. *Id.*

[FN31]. 42 U.S.C. § 1973(c). Since the federal examiner and federal observer provisions of the Voting Rights Act focus on political subdivisions, which ordinarily are counties, a county must be certified for federal examiners even if the object is to assign federal observers to monitor polling places during a city or other election, such as a school board election, within the

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county. See 42 U.S.C. § 1973d-1(c)(2).

[FN32]. See Appendix B, Assignment of Federal Observers Under Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f, by Year and State. There were 4,698 federal observers assigned to polling places in five states from 1966 through 1969; 7,034 federal observers were assigned to nine states in the 1970s; 6,598 federal observers were assigned to 11 states in the 1980s, and 3,753 federal observers were assigned to 13 states in the 1990s. In 2000, 640 federal observers were assigned to 11 states.

[FN33]. U.S. v. Conecuh County, No. 83-1201-H (S.D. Ala. June 12, 1984). The federal observers' reports are not public documents, so there are very few examples on the public record of the facts that the observers have witnessed. One such public document is the Plaintiff's Response to Interrogatories and Request for Production of Documents in Conecuh County. Some of the specific examples of the kind of discriminatory treatment that was afforded African-American voters described in the text that follows are taken from the excerpts of the Conecuh County responses at Appendix C, while others are based on the author's first-hand knowledge.

[FN34]. Pl. Resp. to Interrog. & Req. for Prod. of Doc. at 6, Conecuh County, No. 83-1201-H.

[FN35]. . . It was claimed by white officials that the sample ballots were campaign material which was prohibited inside the polls.

[FN36]. After the Voting Rights Act enabled African-Americans in the deep south to register to vote, it became common for civil rights workers and local African-American residents to drive the new voters to the polls and to give assistance to those who needed it. This was a natural outgrowth of the organizing required during the civil rights movement to achieve voter registration for black people. It provided transportation—many people did not have cars—and gave confidence and protection to these newly enfranchised voters at the polling places from which they had so recently been excluded by white poll workers and voters who did not want them there. This tradition of "hauling" voters to the polls and giving assistance to voters who need it continues today, especially in many rural areas.

[FN37]. U.S. v. City of Hamtramck, No. 00-73541 (E.D. Mich. Aug. 7, 2000).

[FN38]. *Id.*, slip op. at 4.

[FN39]. 42 U.S.C. § 1973b(f)(3).

[FN40]. *Id.* at § 1973(c)(3).

[FN41]. *Id.* at § 1973(c)(2). The jurisdictions subject to the special provisions of the Voting Rights Act are listed in the Appendix to 28 U.S.C. Part 51.

[FN42]. 42 U.S.C. § 1973b(f)(4). A parallel requirement was added in Section 203 of the Voting Rights Act in 1975 for counties determined by different formula. 42 U.S.C. § 1973aa-1a. Section 203 of the Act does not include the other special provisions of Section 4, such as the preclearance, federal examiner and federal observer provisions. Lawsuits under Section 203 must be brought before a three-judge court. As a result of amendments since 1975, coverage under Section 203 now applies to counties that have more than 5 percent of voting age citizens who are members of a single language minority and are limited-English proficient; have more than 10,000 voting age citizens who are members of a single language minority and are limited-English proficient; or have a part of an Indian reservation, and more than 5 percent of the American Indian or Alaska Native voting age citizens are members of a single language minority and are limited-English proficient; and the illiteracy rate of the language minority group citizens is higher than the national illiteracy rate. 42 U.S.C. § 1973aa-1(a)(2). The counties covered under the language minority provisions of Sections 4 and 203 are listed in the Appendix to 28 U.S.C. Part 55.

[FN43]. Counties in Arizona, New York and Texas were certified by the U.S. Attorney General. Counties in California, New Mexico and Utah were certified by federal district courts under Section 3(c) of the Act, 42 U.S.C. § 1973a(c). Section 3(e) provides for certification in a lawsuit brought "under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment... (1) as part of any interlocutory order... or (2) as part of any final judgment if the court finds that violations of the

fourteenth or fifteenth amendment justifying equitable relief have occurred..."

[FN44]. From 1990 through 2000, there were 2,449 federal observers assigned to elections in the states of the Deep South, very few of which involved discrimination against language minority group members, and there were 2,215 federal observers assigned to monitor elections in other areas of the country, most of which involved discrimination against language minority group members. See Appendix B.

[FN45]. Mail addressed to streets using the Spanish nickname was delivered because the postal personnel were familiar with the local Spanish language usages, as the poll workers were not.

[FN46]. Anglo candidates compiled lists of Hispanic voters' names for their poll watchers to challenge at the polls on the ground that the voters were not citizens. United States citizenship is required by every state as a qualification to register to vote in state and federal elections. But in order to avoid discriminatory treatment of voters at the polls and disrupting the polling places with election-day challenges, persons who, before an election, have evidence that a registered voter is not a U.S. citizen should be required to present that information to the voter registrar, and to desist from interposing challenges at the polls to voters whose qualifications have been upheld by the registrar.

[FN47]. U.S. v. Passaic City, No. 99-2544, Order Appointing an Independent Election Monitor in Passaic County (D.N.J. Sept. 6, 2000)(three-judge court).

[FN48]. *Id.* (citing Walter F. Timponc, Office of the Election Monitor, Fifth Report, June 15, 2001, 3-4).

[FN49]. U.S. v. Passaic City, No. 99-2544 (citing Timponc supra n. 48 at 6-7).

[FN50]. U.S. v. Alameda County, No. C95 1266, slip op. at 4 (N.D. Cal. Jan. 22, 1996).

[FN51]. U.S. v. Cibola County, No. 93 1134 (D.N.M. Apr. 21, 1994).

[FN52]. *Id.*

[FN53]. Trujillo v. Garley, C.A. No. 1350 (D.N.M. August 11, 1948).

[FN54]. Sanchez v. King, C.A. No. 82-0067-M (D.N.M. 1984).

[FN55]. Cibola County, No. 93 1134, slip op. at 5-7.

[FN56]. Residences on the Navajo reservation often are miles apart, with no paved roads, and many homes have no telephones. It is not unusual for reservation residents to pick up their mail periodically at a store or other place far from their homes.

[FN57]. Voters were confused because they voted in tribal elections without problem, and were not told, for example, that under state law they had been purged from the county voter rolls because they did not vote with some particular frequency and in particular elections, such as every two or four years in general elections. To add to the confusion, in many areas the tribal elections and the state elections were held on different dates but at the same locations. Prior to the National Voter Registration Act, 42 U.S.C. § 1973gg et seq., voter registration in many counties in Indian country was conducted only in the county seat, far from reservation housing, until, in some instances, litigation required that deputy registrars be made available at reservation sites, and that voter purge procedures be modified to allow fair notice to Native-American voters. U.S. v. Arizona, No. 88-1989 slip op. at 6-11 (D. Ariz. filed May 22, 1989); First Amended Consent Decree, 5-10 (Jan. 3, 1994).

[FN58]. Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina and Texas are fully covered under the Voting Rights Act's special provisions by the formula in Section 4 of the Act, 42 U.S.C. § 1973b. One or more counties are specially covered under Section 4 in California, Florida, Michigan, New Hampshire, New York, North Carolina, South Dakota and Virginia. All jurisdictions covered under Section 4 of the Act are listed in the Appendix to 28 CFR Part 55.

[FN59]. Certification under Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973b(a), is for a particular term as defined

by the court. Certification by the U.S. Attorney General under Section 6 of the Voting Rights Act, 42 U.S.C. § 1973f, is for an unlimited time. Jurisdictions certified under Section 6 can seek to have their certification terminated under Section 13 of the Voting Rights Act, 42 U.S.C. § 1973j. Appendix D is a list of the jurisdictions that have been certified for examiners by court order under Section 3(a) of the Act.

[FN60]. The Voting Section is headed by a chief and four deputy chiefs. There also are special counsels who are senior attorneys assigned to perform particular duties. The pre-election work for a particular jurisdiction usually is overseen by a deputy chief if the jurisdiction is a defendant in recent litigation. Otherwise, the pre-election supervision is handled by the special litigation counsel for elections.

[FN61]. Federal observers are assigned and supervised by the Office of Personnel Management. See 42 U.S.C. § 1973i. OPM centralized the observer program in the OPM office in Atlanta, Georgia, over the past several years. Beginning in 2002 the program was centralized in the OPM office in Denver, Colorado.

There is no standing group of people who are federal observers. Rather, the people chosen to serve as federal observers at a particular election are volunteers, usually from among the OPM nationwide staff except when special abilities are required, such as Native-American language ability. General training sessions are held for observers and observer supervisors at selected sites during the year. Often people will volunteer to serve as observers in election after election, but they are not always available for every election because of the demands of their regular work assignments and prior obligations. Because of the need to recruit observers for each election, and the logistical requirements of transportation (airplane tickets, rental cars) and lodging, the OPM coordinator and the Voting Section supervising attorney are in contact throughout the year to discuss observer needs in upcoming elections.

[FN62]. If a county for which federal observers is recommended has not been certified yet for federal examiners, a separate certification of the county by the U.S. Attorney General is necessary. Certifications are effective upon publication in the Federal Register, 42 U.S.C. § 1973b(b). OPM must publish in the Federal Register a location for an examiner's office. 42 U.S.C. § 1973(a).

[FN63]. In addition, the DOJ attorney in each county calls the supervising attorney often during the day: when the polls open, and every hour after that until it is clear that correct procedures are being followed at the polls in that county, unless continuing problems and their resolution make it necessary to continue frequent contact. This coordination between the supervising attorney and the attorney in the field begins on the day before the election, and does not end until the attorney leaves the county on the day after the election or later.

[FN64]. Initial facts indicating possible violations of the Voting Rights Act most often come to DOJ through complaints by telephone, by mail, or in conversation with DOJ attorneys, paralegals and analysts in the performance of their routine duties.

[FN65]. The federal observers assigned to a particular polling place speak the minority language that is used by the voters at that polling place.

[FN66]. 42 U.S.C. § 1973f.

[FN67]. U.S. v. Consock County, No. 83-1201, slip op. at 3-4 (S.D. Ala. Jan. 16, 1984).

[FN68]. *Id.* at 3-4.

[FN69]. *Id.* at 4.

[FN70]. U.S. v. Johnson County, No. 393-45, slip op. at 2-3 (S.D. Ga. filed Sept. 14, 1993).

[FN71]. *Id.* at 6.

[FN72]. This change in practice was reviewed and precleared under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c.

[FN73]. 42 U.S.C. § 1973aa-1g

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[FN74]. See *U.S. v. Socorro County*, No. 93-1244 (D.N.M. filed Apr. 13, 1994); *U.S. v. Sandoval County*, No. 88-1457 (D.N.M. filed June 10, 1993); *U.S. v. San Juan County*, No. C-83-1287, First Amended Settlement and Order (D. Utah filed Aug. 24, 1990); *U.S. v. McKinley County*, No. 86-0028-M, First Amended Consent Decree and Order (D.N.M. Jul. 20, 1990); Arizona, No. 88-1989, First Amended Consent Decree in that case (Jan. 3, 1994).

[FN75]. Cibola County, No. 93-1134.

[FN76]. A letter of understanding was developed between DOJ and San Juan County, New Mexico, which required the county to adopt a manual of procedures to comply with the language minority requirements of the Voting Rights Act. The manual would become final after review and concurrence by DOJ. Changes in the procedures would become effective upon the concurrence of DOJ. Letters of understanding have not been widely used by DOJ in its Voting Rights Act enforcement. The letters have the advantage of getting a fast remedy and avoiding the uncertainties of litigation. The main disadvantage of using a letter of understanding is the inability to seek contempt of court sanctions if the county does not follow the steps in the letter or the county's manual of procedures. If the actions that the county fails to take are significant, a legal action would need to be filed at that time, prolonging the time for obtaining a remedy.

[FN77]. *U.S. v. Bernalillo County*, No. CV-98-156 (D.N.M. Apr. 27, 1998).

[FN78]. *Id.*, slip op. at 4.

[FN79]. *Id.*

[FN80]. 42 U.S.C. § 1973a(c).

[FN81]. *Id.*, slip op. at 6.

[FN82]. *N.Y. Election L. § 8-500 (McKinney 2001)*.

[FN83]. *Utah Code Ann. § 20A-3-201 (2001)*.

[FN84]. See Appendix G.

[FN85]. See e.g. the following states in which violation of laws against voter intimidation or interference are punished as felonies under state law: *Cal. Election Code § 18540* (West 2002) ("felony punishable by imprisonment in the state prison for 16 months or two or three years"); *Conn. Gen. Stat. § 9-366 (2002)* ("shall be imprisoned not more than five years"); *Ind. Code Ann. § 3-14-3-A* (West 2001) ("commits a Class D felony"); *Ky. Rev. Stat. Ann. § 119.155 (2001)* ("shall be guilty of a Class D felony"); *N.M. Stat. Ann. § 1-70-14 (2001)* ("Whoever commits intimidation is guilty of a fourth degree felony"); 25 Pa. Consol. Stat. § 3527 (West 2001) ("shall be guilty of a felony of the third degree").

[FN86]. *Tenn. Code Ann. § 2-3-108*. "The case law of this state recognizes that statutory violations alone may be sufficient to invalidate an election, especially where they thwart those statutory provisions designed to prevent undue influence or intimidation of the free and fair expression of the will of the electors." *Tenn. Code Ann. § 2-3-108*.

[FN87]. "Whoever, being a duly qualified elector of this State according to the Constitution and laws thereof, is prevented from voting, or obstructed in his or her effort to vote at any election, by reason of any interference by any person or persons, or military power, or other power, exercising or attempting to exercise force, intimidation or threats, or requiring any qualifications or conditions unknown to such Constitution and laws, shall be deemed and taken to have suffered private damage and injury, and shall have civil remedy thereof, in the court of this State, by civil action against every person who promoted such interference, whether by active participation, or by advising, counseling, or in anywise encouraging the same." *Del. Code Ann. Tit. 15, § 5303 (2001)*.

[FN88]. *Neb. Rev. Stat. § 32-910 (2001)* ("Any judge or clerk of election, precinct or district inspector, sheriff, or other peace officer shall clear the passageways and prevent obstruction of the doors or entries and provide free ingress to and egress from the polling place building and shall arrest any person obstructing such passageways."); *Wash. Rev. Code Ann. § 29.51.020* (West 2002) ("Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction,

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and may arrest any person creating such obstruction*).

[FN89]. "Managers of election are clothed with such police powers as may be necessary to carry out the provisions of this article. The managers shall possess full authority to maintain good order at the polls and to enforce obedience to their lawful commands during an election and during the canvass and counting of the votes. All peace officers shall answer all such calls for help in preserving the peace as may be made by the managers of election." *S.C. Code Ann. § 7-13-140 (2001)*.

[FN90]. "It shall be unlawful for any person to hinder, intimidate, or interfere with any qualified voter so as to prevent the voter from casting a secret ballot. The officers of election may order a person violating this subsection to cease such action. If such person does not promptly desist, the officers of election, or a majority of them, may order the arrest of such person by any person authorized by law to make arrests, and, by their warrant, may commit him to the county or city jail, as the case may be, for a period not exceeding twenty-four hours." *Va. Code Ann. § 24.2-607 (2002)*.

[FN91]. "The municipal clerk and election inspectors shall prevent interference with and distraction of electors at polling places." *Wis. Stat. § 5.35 (2001)*.

[FN92]. 10 Ill. Comp. Stat. 5/1A-8 (2001).

[FN93]. *Ga. Code Ann. § 21-2-31 (2000)*.

[FN94]. 25 Pa. Consol. Stat. § 3047 (2001).

[FN95]. *S.C. Code Ann. § 7-13-160 (2001)*.

[FN96]. See e.g. *Fla. Stat. § 104.0515 (2001)* ("whether acting under color of law or otherwise").

[FN97]. See Caltech/MIT Voting Tech. Program, July 2001 Report: Voting—What Is, What Could Be, (July 2001)(available at <http://web.mit.edu/newsoffice/nr/2001/VTP_report_all.pdf>); The Consts. Project's Forum on Election Reform, Bldg. Consensus on Election Reform, Aug. 2001 (available at <<http://www.constitutionproject.org/eri/CP%20Report.pdf>>); The Election Ctr., Natl. Task Force Rpt. on Election Reform, Election 2000: Review and Recommendations by The Nation's Elections Adminstrs. (July 2001)(available at <<http://www.electioncenter.org/electionreformreport/COMPLETE%20Final%20Report.htm>>); The Fla. Sen., Comm. on Ethics and Elections, Rev. of the Voting Irregularities of the 2000 Pres. Election (Mar. 2001)(available at <http://199.44.254.194/data/Publications/2001/Senate/reports/interim_reports/pd/2001-201ecLONG.PDF>); Election Reform Info. Project, What's Changed, What Hasn't, and Why?, Election Reform Since Nov. 2000 (October 22, 2001)(available at <http://www.electionline.org/site/docs/pdf/electionline_report.10.22.2001.pdf>); The Gov.'s Select Task Force on Election Procs., Stands, and Tech., Revitalizing Democracy in Fla. (Mar. 1, 2001)(available at <http://www.colinscenter.org/user_doc/Revitalizing_Democracy&uscore;in_Florida.pdf>); U.S. Comm. on Civil Rights, Voting Irregularities in Florida During the 2000 Presidential Election, (June 2001)(available at <<http://www.usccr.gov/pubs/vote2000/report/main.htm>>); U.S. Comm. on Civil Rights, The Florida Election Report: Dissenting Statement by Commr. Abigail Thernstrom and Commr. Russell G. Redenbaugh (July 19, 2001)(available at <<http://www.usccr.gov/pubs/vote2000/report/appendix/dissent.htm>>); Natl. Assn. of Secs. of State, Election Reform: State by State Best Practices Rpt. (Aug. 1, 2001) (available at <http://www.nass.org/reports/reform_report.htm>); Natl. Comm. on Election Stands, and Reform, Rpt. and Recommendations to Improve Am's Election System, (May 2001)(available at <<http://www.naco.org/programs/infotech/elections/election.pdf>>); The Natl. Comm. on Fed. Election Reform, To Assure Pride and Confidence in the Electoral Process (August 2001)(available at <http://www.reformelections.org/data/task_1/3/_reports/full&uscore;if_report.pdf>); Natl. Conf. of State Legis., Voting in Am.: Final Rpt. of the NCSL Elections Reform Task Force (August 2001)(available at <<http://www.ncsl.org/programs/press/2001/electref0801.htm>>); Joseph K. Pika, The 2000 Del. Sen. Race, PS: Pol. Sci. and Pol. (June, 2001)(available at <<http://www.apsanet.org/PS/june01/pika.cfm>>); U.S. General Accy. Off., Report to the Cong., Elections, The Scope of Congressional Authority in Election Administration, (March 2001)(available at <<http://www.gao.gov/new.items/d01470.pdf>>); U.S. General Accy. Off., Testimony Before the Subcommittee on Military Personnel, Committee on Armed Services, House of Representatives, Issues Affecting Military and Overseas Absentee Voters, (May 2001) (available at <http://www.secstate.wa.gov/elections/pdf/gao_report.pdf>).

[FN98]. There are some instances in which parties have become aware of election day irregularities which are brought to the attention of the Department of Justice on election day, such as possible violations of outstanding consent decrees.

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[FN99]. Of course, the parties continue to monitor and observe recounts.

[FN100]. The information regarding these allegations comes from the author's personal knowledge, serving as counsel for the Gore/Lieberman campaign. Many of the allegations are similar to those reported to the numerous organizations that conducted reviews of election day 2000.

[FN101]. *Missouri ex. rel. Bush-Cheney 2000, Inc., Relators v. Honorable Evelyn M. Baker*, 34 S.W.3d 410 (Mo. App. 2000).

[FN102]. See U.S. Comm. on Civil Rights, *Voting Irregularities in Fla. During the 2000 Pres. Election*, supra n. 88 at chapter 2.

[FN103]. *U.S. v. Florida*, No. TCA-80-1055 (N.D. Fla. 1982).

[FN104]. Historically, very close elections have usually happened where the electorate was very small. There have been recounts in many races at the State and local level in such close races—some of which involved reviews of disqualified ballots. What was unprecedented in 2000 was the realization that the Presidential contest could be so close that disqualified ballots could make the difference.

[FN105]. *Bush v. Gore*, 531 U.S. 98 (2000).

[FN106]. *Id.* at 104-105.

[FN107]. *Id.* at 109.

[FN108]. *Id.*

[FN109]. The U.S. Attorney General has no cease and desist power in this area. Remedies for discriminatory actions at the polls must be sought in lawsuits in federal district court.

[FN110]. Cf. Sections 3(a), 3(b) and 3(c) of the Voting Rights Act of 1965, Publ. No. 89-110 (Aug 6, 1965), with Sections 3(a), 3(b) and 3(c) of the Voting Rights Act Amendments of 1975, Publ. No. 94-73 (Aug 6, 1975).

[FN111]. It is noted that all reform is not costly. Less expensive changes include clarification of standards and rules governing the conduct of elections and the counting of votes.

[FN112]. This information is extracted from the Semiannual Report of Cumulative Totals on Voting Rights Examining as of December 31, 2000. Prepared by the Office of Workforce Information, Office of Merit Systems Oversight and Effectiveness, U.S. Office of Personnel Management, Washington, D.C. 20415.

[FN113]. People were listed in Autauga, Dallas, Elmore, Greene, Hale, Jefferson, Lowndes, Marengo, Montgomery, Perry, Sumter, and Wilcox Counties.

[FN114]. People were listed in Butts, Lee, Scriven, and Terrell Counties.

[FN115]. People were listed in Bossier, Caddo, DeSoto, East Carroll, East Feliciana, Madison, Ouachita, Plaquemins, and West Feliciana Parishes.

[FN116]. People were listed in Amite, Benton, Bolivar, Carroll, Claiborne, Clay, Coahoma, DeSoto, Forrest, Franklin, Grenada, Hinds, Holmes, Humphreys, Issaquena, Jasper, Jefferson, Jefferson Davis, Jones, LeFlore, Madison, Marshall, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Quitman, Rankin, Sharkey, Simpson, Sunflower, Tallahatchie, Walthall, Warren, Wilkinson, and Winston Counties.

[FN117]. People were listed in Clarendon and Dorchester Counties.

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[FN119]. This information is extracted from the summary of federal observer activity by calendar year, United States Department of Justice, Civil Rights Division, Voting Section. Southern states are listed first in this chart because federal observers were assigned only to Southern states for the first years shown.

[FN120]. U.S. v. Conecuh County, No. 83-1201-H (S.D. Ala. Filed Jun. 12, 1984).

[FN121]. Id. at 7.

[FN122]. Id. at 8-9.

[FN123]. Id. at 16-17.

[FN124]. Id. at 21.

[FN125]. Id. at 24.

[FN126]. Id. at 35.

[FN127]. Id. at 36-37.

[FN128]. Id. at 40.

[FN129]. Information obtained from Jurisdictions Currently Eligible for Federal Observers as a Result of Orders Under Section 3(c) of the Voting Rights Act, United States Department of Justice, Civil Rights Division, Voting Section, October 22, 2001.

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PREPARED STATEMENT OF THE HONORABLE BRADLEY J. SCHLOZMAN, PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, DEPARTMENT OF JUSTICE, CONCERNING THE VOTING RIGHTS ACT: SECTIONS 6 AND 8, FEDERAL EXAMINER AND OBSERVER PROGRAMS

Chairman Chabot, Ranking Member Nadler, distinguished members of the Subcommittee:

I am Bradley Schlozman, the Principal Deputy Assistant Attorney General of the Civil Rights Division at the Department of Justice. As I have underscored in previous testimony before this Subcommittee, the President has directed the full power and might of the Justice Department to enforcing the Voting Rights Act and preserving the integrity of our voting process. This Administration looks forward to working with Congress on the reauthorization of this important legislation.

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It is my privilege today to provide you with an overview of the Justice Department's use of sections 6 and 8 of the Voting Rights Act,¹ which pertain to Federal examiners and Federal observers. As you know, these provisions, like section 5,² are slated to expire in August 2007.

FEDERAL EXAMINERS

Let me begin by explaining what "federal examiners" are within the meaning of the Voting Rights Act. Federal examiners are essentially officials assigned to a particular political subdivision to whom certain complaints of voting discrimination can be made. Governed by section 6 of the Act, the authority to appoint Federal examiners was first designed as a congressional response to the racially discriminatory voter registration practices that existed throughout the South at the time of the Act's original passage in 1965. Examiners are charged with processing (or "examining") applicants for voter registration and making a list of those applicants who meet State eligibility rules; the list is then given to the local county registrar, who is required to put those names on the county's voter registration rolls. Those on the examiner's list are commonly called "federally registered voters." The Voting Rights Act also requires the examiners to be available during each of the jurisdiction's elections, and for two days afterward, to take complaints from any federally registered voter claiming that he/she had not been allowed to vote.

Federal examiners can be appointed in two separate ways. The first route is through section 6's empowerment of the Attorney General to "certify" for the appointment of Federal examiners any jurisdiction falling within the coverage of the Voting Rights Act in which there is reason to believe that voters have been denied the right to vote on account of their race or status as a language minority. In particular, the Attorney General must certify that either: (i) he has received complaints in writing from twenty or more residents alleging that they have been denied the right to vote under color of law on account of race or color or because they are a member of a language minority and he believes such complaints to be meritorious; or (ii) in his judgment, the appointment of examiners is necessary to enforce the guarantees of the 14th or 15th Amendments. The second method by which Federal examiners may be appointed is for a Federal court to do so pursuant to section 3(a) as part of an order of equitable relief in a voting rights lawsuit to remedy violations of the 14th or 15th Amendment. Judicial certifications, unlike those of the Attorney General, are not restricted to those political subdivisions covered by section 4 of the Voting Rights Act. Regardless of who makes the formal certification, once the determination is made, the actual selection of the examiner is undertaken by the Director of the Office of Personnel Management (OPM), who then oversees the examiner's activities.

The Voting Rights Act's ban on literacy tests and other discriminatory practices has mitigated many of the voter registration problems that made examiners so important. As a result, the need for, and role of, Federal examiners has greatly diminished over time. Although there are still 148 counties and parishes in 9 States that the Attorney General has certified for Federal examiners,³ nearly all of these certifications were certified shortly after the Voting Rights Act was passed in 1965 when conditions were radically different from today.⁴ Moreover, many of the counties/parishes have not been the source of any race-based voting registration complaints for decades.

According to OPM, there have been no new "federally registered voters" (*i.e.*, voters registered by Federal examiners) added in any jurisdiction throughout the country since 1983. Nor has the Department of Justice received any complaints about covered jurisdictions refusing to register Federal voters in decades.

In addition to the great advances in minority access to the franchise today as compared to 30-40 years ago, the decline in registration-related complaints is also attributable to the passage of the National Voter Registration Act of 1993 (NVRA), which made voter registration dramatically more accessible.⁵ Prior to this 1993 Act,

¹ 42 U.S.C. 1973d, 1973f.

² 42 U.S.C. 1973c.

³ There are also 19 political subdivisions in 12 States currently certified by court order. With two exceptions, all of these certifications pertain to language-minority issues. An additional 14 jurisdictions in eight States previously were certified for Federal examiners by Federal courts under section 3(a), but the designations have since expired.

⁴ The complete list of counties certified by the Attorney General, along with dates of certification, can be found on the website of the Department of Justice's Voting Section. See <http://www.usdoj.gov/crt/voting/examine/activ-exam.htm>.

⁵ 42 U.S.C. 1973gg *et seq.*

there were few Federal standards for voter registration. Through the NVRA, however, Congress established specific, uniform requirements for voter registration and State maintenance of voter registration lists. All of these requirements are applicable across the United States, not just in those jurisdictions certified for Federal examiners or otherwise covered by the Voting Rights Act. The reality today is that the only real importance of the Federal examiner provision from a practical standpoint is its function as a statutory prerequisite to the Attorney General's ability to call upon OPM to assign Federal observers to monitor particular elections in certified jurisdictions.

FEDERAL OBSERVERS

At any time after a Federal examiner has been appointed to a particular jurisdiction, the Attorney General may request under section 8 that the Director of OPM assign Federal observers to monitor elections in that jurisdiction.⁶ These observers are Federal employees who are recruited and supervised by OPM. They are authorized by statute to enter polling places and vote-tabulation rooms in order to observe whether eligible voters are being permitted to vote and whether votes cast by eligible voters are being properly counted.

The OPM observers work in conjunction with attorneys from the Justice Department's Civil Rights Division. Department of Justice attorneys assist OPM with the observers' training,

brief the observers on relevant issues prior to the election, and work closely with them on election day. Federal observers are instructed to watch, listen, and take careful notes of everything that happens inside the polling place/vote-tabulation room during an election. They are also trained not to interfere with the election in any way. After the election, Justice Department attorneys debrief the observers, and the observers usually complete written reports on their observations. These reports are sent on to the Civil Rights Division and can be used in court if necessary.

Most Federal observers dispatched to cover elections find no irregularities. Still, problems occur. Over at least the last decade, most of these have related to compliance with the language minority requirements of section 203.⁷ Where problems are discovered, a variety of actions may be taken depending on the relevant circumstances. On occasion, Justice Department personnel will assess the situation and work with county/parish officials on election day to clarify Federal legal requirements and immediately resolve the identified problem. Other times, the Department will send a letter to the jurisdiction following the election in which we identify certain incidents or practices that should be addressed or improved in the future (e.g., removal of certain poll workers, additional training for election-day officials, etc.). Department attorneys likewise may recommend further investigation. If no Federal issues are identified, the matter may be referred to State authorities. If necessary, the Department will commence a civil action (or contempt motion if applicable) to enforce the protections of the Voting Rights Act.

Notwithstanding the general overall compliance with the Voting Rights Act, the Department of Justice has taken full advantage of the Federal observer provisions to help avoid slippage or complacency by covered jurisdictions. In 2004, for example, the Civil Rights Division worked with OPM to send 1,463 observers to cover 55 elections in 30 jurisdictions in 10 different States. Meanwhile, already in 2005, Federal observers have been dispatched to 21 elections in 17 jurisdictions in 10 different States.

In areas of the country where Federal observers cannot be sent, the Civil Rights Division will send its own staff lawyers to monitor elections if it has received complaints or has uncovered credible evidence of possible violations of the Voting Rights Act. In fact, the great bulk of our recent enforcement cases since, say, 1993, have involved jurisdictions (e.g., Massachusetts, California, New York, New Jersey, Florida, Washington, and Pennsylvania) where there is no statutory authority to send Federal observers. We have expended substantial resources in this endeavor. For example, in 2004, the Department of Justice sent 533 departmental personnel to monitor 108 elections in 80 jurisdictions in 27 different States. So far in 2005, the Department has sent 186 personnel to cover 24 elections in 21 jurisdictions in 9 different States. Those monitors helped account for the record-setting work we have done in enforcing the Voting Rights Act in recent years.

As I have said before to this Subcommittee, the Civil Rights Division has made the vigorous enforcement of voting rights a primary objective, and we have been very successful in doing so. Our election monitoring and observer coverage is just

⁶ 42 U.S.C. 1973f.

⁷ 42 U.S.C. 1973aa-1a.

one small part of that effort. I thank the committee for the opportunity to submit this statement.

INSERTED INTO THE RECORD BY CONGRESSMAN WATT DURING THE HEARING: LETTER FROM WILLIAM JENKINS, DIRECTOR, HOMELAND SECURITY AND JUSTICE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE, TO THE HONORABLES JOSEPH LIEBERMAN, HENRY WAZMAN, AND JOHN CONYERS, JR. REGARDING THE DEPARTMENT OF JUSTICE'S ACTIVITIES TO ADDRESS PAST ELECTION-RELATED VOTING IRREGULARITIES



September 14, 2004

The Honorable Joseph I. Lieberman
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
House of Representatives

The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives

Subject: Department of Justice's Activities to Address Past Election-Related Voting Irregularities

Election-day problems in Florida and elsewhere in November 2000 raised concerns about voting systems that included, among other things, alleged voting irregularities that may have affected voter access to the polls. The term voting irregularities generally refers to a broad array of complaints relating to voting and/or elections that may involve violations of federal voting rights and/or federal criminal law for which the Department of Justice (DOJ) has enforcement responsibilities.

You requested that we review activities at DOJ to help ensure voter access to the polls and actions to address allegations of voting irregularities. This report (1) identifies and describes changes DOJ has made since November 2000 to help ensure voter access to the polls; (2) identifies and describes actions that the Voting Section in DOJ's Civil Rights Division has taken to track, address, and assess allegations of election-related voting irregularities received between November 2000 and December 2003; and (3) assesses the Voting Section's internal control¹ activities

¹Election-related refers to a preliminary investigation, matter, or case that the Voting Section initiated based on allegations about a specific election. A matter is an activity that has been assigned an identification number but has not resulted in a court filing of a complaint, indictment, or information. A case is an activity that has been assigned the same identification number that it had as a matter and has resulted in the court filing of a complaint, indictment, or information.

²Internal controls are integral components of an organization's management that provide reasonable assurance of objectives that include, among other things, efficient operations. They comprise the plans, methods, and procedures used to meet missions, goals, and objectives and, in doing so, support performance-based management. For additional information on internal controls, see GAO *Internal Control: Standards for Internal Control in the Federal Government*, AIMD-00-213.1 (Washington, D.C.: November 1, 1999).

to help ensure relevant, accurate, and reliable recording and documentation of allegations of voting irregularities to accurately track actions taken in response to allegations and provide accurate and complete information to the public and congressional committees.

We primarily performed our work at DOJ's Civil Rights Division, Voting Section. We obtained relevant documentation and interviewed responsible officials regarding DOJ's activities to help ensure voter access to the polls. To identify and describe changes made since November 2000, we reviewed documentation on DOJ's efforts to monitor and observe elections, increase emphasis on enforcement of minority language and overseas voters' rights, disseminate election-related guidance, and increase its resources to address voting issues. To identify and describe actions that the Voting Section took to track, address, and assess allegations of voting irregularities, we reviewed telephone logs and 34 files with information on a preliminary investigation, matters, and cases that the Voting Section considered to be election-related voting irregularities initiated from November 2000 to December 2003. To assess the Voting Section's internal controls, we obtained available documentation of policies, procedures, and techniques the Voting Section has to manage allegations of voting irregularities and considered them in relation to GAO's internal control standards. We also interviewed officials and obtained documentation from DOJ's Criminal Division, Public Integrity Section (PIN), in relation to the coordination between the Voting Section and PIN to address voter access to the polls.

On August 31, 2004, we provided your staffs a briefing document on the results of our work. Enclosure I contains the materials we presented at that time. Our audit work was performed in Washington, D.C., from May 2003 through August 2004 in accordance with generally accepted government auditing standards.

Background

The Voting Section in the Civil Rights Division is charged with the responsibility of enforcing federal voting rights statutes that are designed to safeguard the right to vote of racial and language minorities; disabled, elderly, and illiterate persons; and military and overseas voters, among others. The Voting Section is also charged with the responsibility of enforcing federal statutes that, among other things, address issues such as voter registration, provisional voting, and voter information. Provisional voting permits eligible persons to vote on election day if their names are not on voter registration lists, with the understanding that each person's eligibility will be verified after the election and their votes counted, if eligible. (See enc. I, and attach. I, for more information on statutes that the Voting Section enforces.)

The Voting Section, among other things, monitors election-day activities to ensure voting rights are protected and initiates investigations and opens matters—an activity that has not resulted in a court filing of a complaint, indictment, or information—to examine allegations of voting irregularities that fall within the jurisdiction of the Civil Rights Division. If warranted, a matter may culminate in a case—an activity that has resulted in the filing of a complaint, indictment, or information with a federal court.

The Voting Section also may initiate matters to monitor private lawsuits. Voting Section attorneys are generally responsible for conducting investigations and prosecuting cases.

The Voting Section also coordinates with PIN to refer allegations the Voting Section receives that involve violations of criminal statutes related to voting fraud. For example, in relation to the 2002 federal election, the Voting Section referred three matters deemed to be potential violations of criminal laws to PIN, which assumed responsibility for the investigations. In addition, the Voting Section and PIN have provided joint training to Assistant U.S. Attorneys, with the Voting Section presenting information about civil rights statutes that are to protect the right to vote and PIN presenting information about criminal statutes that are to prevent election fraud.

Results

Since November 2000, DOJ has implemented changes to help ensure voter access to the polls. The Voting Section emphasized the importance of its monitoring of election-day activities and increased its monitoring of these activities. In 2000, DOJ attorneys and professional staff monitored elections in 5 counties in 5 states. By 2002, the number of election jurisdictions monitored by DOJ attorneys and professional staff increased to 19 counties in 10 states, with monitoring of elections in counties in Florida accounting for the bulk of the increase. The Voting Section also (1) placed a greater priority on protecting the voting rights of language minority voters by helping to ensure that certain covered jurisdictions provided bilingual voting materials for elections; (2) placed a priority on enforcing and preparing for compliance with the federal statute to help ensure voting rights of overseas voters; (3) provided additional training to Assistant U.S. Attorneys on civil rights statutes to educate them about voters' rights; and (4) provided guidance to states regarding the implementation of sections of the Help America Vote Act of 2002 (HAVA) that DOJ enforces.² For example, the Voting Section provided guidance to states by issuing a press release that outlined provisions of HAVA that took effect on January 1, 2004, such as provisional voting and identification requirements for new voters who register by mail.

The Attorney General directed the Civil Rights Division to work with civil rights leaders, state and local election officials, and U.S. Attorney Offices prior to election day in an effort to help ensure that citizens' voting rights are protected. The Attorney General also directed the Criminal Division to work with these same groups in helping to preserve ballot integrity and prevent election offenses. Almost all of the U.S. Attorney Offices reported that they had contacted various state or local officials prior to the November 2002 election. Voting Section officials reported that the Assistant Attorney General for the Civil Rights Division and staff from that division met with various civil rights organizations.

² 42 U.S.C. §§ 16301 to 16615.

According to Voting Section officials, DOJ plans to help ensure voter access for the upcoming November 2004 election include increasing its monitoring of elections, coordinating with civil rights organizations, and establishing procedures for bringing the concerns of civil rights organizations about specific issues or jurisdictions to DOJ on or before election day in November 2004. Voting Section officials also said that final decisions as to where monitoring will be conducted are not made public until shortly before an election. (See enc. I for more information.)

The Voting Section has used several means of tracking allegations of voting irregularities and the Section's actions with regard to those allegations. First, the Voting Section used telephone logs to track telephone calls regarding allegations of voting irregularities it received related to the November 2000 and 2002 elections. According to the Voting Section, contractors were hired to help handle the unprecedented number of calls that were received concerning the November 2000 election situation to help ensure that the public would be able to voice opinions and concerns. Second, DOJ tracks matters and cases through its Interactive Case Management (ICM) system—its formal process for tracking and managing work activities. Prior to opening a matter, the Voting Section may make a determination that an allegation does not fall within DOJ's jurisdiction or may initiate a preliminary investigation about an allegation. Third, the Voting Section tracked monitoring of elections using logs and for some election-monitoring activities they opened matters; thus, it has not routinely tracked election-monitoring activities through the ICM system. (See enc. I for more information.)

Actions that Voting Section attorneys took to address allegations of voting irregularities initiated from November 2000 to December 2003 included contacting cognizant election officials at the state and local levels; obtaining data as appropriate; interviewing voters affected by alleged voting irregularities; meeting with minority groups; and assessing the merits of the allegations to determine what, if any, further action was needed. Attorneys in the Voting Section addressed allegations of voting irregularities by first determining whether the allegations were related to violations of federal civil rights statutes and then, if warranted, initiating a preliminary investigation or matter to determine whether an allegation had merit. If warranted, a matter may culminate in a case that is filed with a federal court. We reviewed files for 1 closed preliminary investigation, 25 closed matters, and 8 open and closed cases that the Voting Section considered election-related. The preliminary investigation and 13 matters were closed because they lacked merit. The remaining 12 matters were closed because the state or voting jurisdiction took action to remedy an issue, a state court issued an order addressing the issue, the voting jurisdiction implemented changes for future elections, or Voting Section attorneys provided election officials feedback following the on-site monitoring of elections. Six cases remain open pending fulfillment of consent decrees entered into on behalf of DOJ and the jurisdiction in alleged violation of federal statute, and two cases were closed because states had taken action in response to consent decrees. Enclosure I and attachment IV provide detailed information on actions taken regarding selected matters and cases that the Voting Section considered as involving election-related voting irregularities initiated from November 2000 to December 2003.

Regarding internal controls, we found that the Voting Section did not have a reliable method to consistently record and document telephone calls received alleging voting irregularities. According to Voting Section officials, the number of calls received following the November 2000 election far exceeded the number received in past elections. As a result, the Voting Section used a contractor to assist in handling the telephone calls. To track some of the telephone calls related to the November 2000 election, Voting Section and contractor staff used telephone logs that had several broad categories to capture the subject of the allegation, rows for states from which the calls originated and, for the most part, tabulated the numbers of calls using tick marks. Voting Section staff also kept two other types of logs to record some telephone calls, which included columns to record a caller's name, state, telephone number, and description of the call. Our analysis of the contractor telephone logs found, among other things, that these logs did not include a way to record calls from 4 states—Arkansas, Kansas, Montana, and North Dakota. According to Voting Section officials, these 4 states were left off the contractor logs inadvertently, although these officials noted that they were unaware of any calls received from these states. Our analysis of logs that Voting Section staff completed found that Voting Section staff recorded having received calls from some of these states. The Voting Section improved upon the telephone log for the November 2002 election by having one log that consistently provided for documenting the caller's name, telephone number, and action taken. Compared with the telephone log that contractor staff maintained and one of the three types of logs that Voting Section staff maintained after the November 2000 election, which had several columns to broadly categorize the subject of the telephone calls, the November 2002 log included one column to capture the subject of the telephone calls. The Voting Section plans to take several actions to address voting irregularities for the November 2004 election, including, among other things, using a telephone log similar to the one used for the November 2002 election. The Voting Section did not provide written instructions to contractors for completing the telephone logs related to the 2000 election. However, for the November 2002 federal election, the Voting Section provided instructions to DOJ staff for how to handle calls from citizens, the press, members of Congress, and others. In addition to its method for recording and documenting telephone calls received regarding voting irregularities, we found that the Voting Section did not routinely track its election-monitoring activities through its ICM system. The Voting Section said that it has plans to assign one identification number to track these activities in the future. (See enc. I for more information.)

In conclusion, lack of specifics about allegations and actions limits DOJ's ability to have accurate and clear information to share with the public or Congress about the types of allegations received and actions taken. Predictions of another close presidential election in November 2004 combined with possible voter confusion over new requirements in the Help America Vote Act—such as the implementation of provisional voting in states that had not previously used provisional voting—and possible questions regarding voting equipment could result in the Voting Section again receiving a very large number of telephone calls. This could result in the need to use contractors to record voter allegations because much of the Voting Section staff will be monitoring election sites on election day. It is important that the

information collected be as complete, accurate, and specific as possible regarding specific allegations. If the Voting Section collects more precise information about voter allegations, it is in a better position to assure the public that it has addressed allegations of voting irregularities. Moreover, if it documents actions taken more precisely, it is better able to reassure the public and Congress of its commitment to enforce federal voting rights statutes.

The Voting Section emphasized the importance of its monitoring of election-day activities, but the monitoring program has not been routinely tracked in the Voting Section's ICM system. We believe the significance of this program warrants a more formal tracking of monitoring efforts and resources dedicated to the program to allow for reliable, relevant, and timely information for management decision making and for external reporting purposes.

Recommendations for Executive Action

Confidence in our election processes is of utmost importance. To help ensure confidence in the integrity of voting processes, the Voting Section plays an important role in addressing voting irregularities. By accurately recording and documenting its activities in as clear a manner as possible, the Voting Section contributes to assuring the public and Congress of the integrity of our voting processes and that allegations of voting irregularities have been addressed.

To reassure citizens of the integrity of our election processes and to reassure the public and Congress of DOJ's commitment to its responsibility to enforce federal voting rights statutes, we recommend that the Attorney General direct the Chief of the Voting Section to take the following two actions

- develop and implement procedures for the November 2004 election to help ensure that the Voting Section has a reliable method of tracking and documenting allegations of voting irregularities and actions taken to address them. Procedures could include more precise categories to record types of allegations and actions taken; development of instructions on completing the telephone logs; and development and implementation of training for contractors, should they be needed; and
- implement a method to track and report on election-monitoring activities in the ICM system.

Agency Comments

We provided a draft of this report to DOJ for review and comment. The draft report sent to DOJ for comment reflected changes made as a result of DOJ's prior detailed review of attachment IV in enclosure I and changes DOJ requested in writing following our exit conference with them. In commenting on the draft, DOJ generally agreed with the report and recommendations. The Deputy Assistant Attorney General for the Civil Rights Division accepted both recommendations and said that the

Assistant Attorney General for the Civil Rights Division has directed their implementation.

In commenting on our recommendation for the Civil Rights Division to track and report on election-monitoring activities in the ICM system, DOJ noted that it currently has procedures that effectively track election-monitoring activities. Our report acknowledges that the Division had information on election monitoring. However, the Voting Section told us that they did not routinely track election-monitoring activities in the ICM system—its formal process for tracking and managing work activities. Because we had asked for clarification of the confusing and unclear information previously provided on election monitoring and tracking, the Civil Rights Division, in a May 25, 2004, written response provided clarifying information that explained the different databases and data from logs that were used to capture information on election monitoring. In this written response, the Civil Rights Division included four charts on election monitoring that had been recently created, one for each calendar year from 2000 through 2003 (but not for 2004, as the Division states it did). In addition, the Civil Rights Division said that it had asked for a program that would provide the types of reports and data that the Division is routinely asked to provide regarding the election-monitoring program. Our recommendation is directed toward improving the Voting Section's tracking of election-monitoring activities, which the Voting Section has emphasized as being a very important part of its efforts to help ensure voter access to the polls. Tracking election-monitoring activities in the ICM system would ensure that this important component of the Voting Section's work is incorporated into the Division's formal process for tracking and managing work activities.

After we provided DOJ with a copy of the draft report that included this correspondence and its enclosure for review and comment, Civil Rights Division officials realized they had not provided us with information on all of the telephone logs used following the November 2000 election. The Civil Rights Division subsequently provided that additional information, which showed that Voting Section staff used two additional types of logs for the November 2000 election. These logs included columns to record callers' names, telephone numbers, states, and descriptions of the calls. This new information was incorporated into our report to accurately reflect the Voting Section's activities to track telephone calls following the November 2000 election. (See p. 5 in this letter and p. 42 in enc. I.) According to the Civil Rights Division, the November 2002 log, which it proposes as the basis for documenting telephone calls related to the upcoming November 2004 elections, was the only one used by Voting Section staff for the November 2002 election.

DOJ noted that the draft report discussion of the Civil Rights Division's use of telephone logs focused almost exclusively on the logs maintained by contractors, that the draft report failed to note that these logs were only a small portion of all the records of telephone calls received by the Division, and that any shortcomings in these logs were extremely unlikely to have changed the course of subsequent investigations. As we note in our report, it was difficult to obtain precise information on the number of calls or the specific nature of alleged irregularities from the

telephone logs on the November 2000 election. The information that the Voting Section collected on its telephone logs was not precise enough to support the Division's statements that upwards of 95 percent of the calls received regarding the November 2000 election reflected citizen frustration or anger over the election, that the vast majority of the calls that contractors received came from New York and California, or that the vast majority of the calls from those two states expressed frustration over the situation in Florida. Moreover, it is important to note that our recommendation with regard to recording complaints about voting irregularities for the November 2004 election is based on the limitations of the log used in November 2002 and the lack of a clear plan for accurately recording a potentially large volume of complaints that may arise from the November 2004 election. For example, November 2004 will be the first national election in which all states will be implementing HAVA's new voter identification and provisional voting requirements with which many voters may be unfamiliar.

In its comments, DOJ said that the Civil Rights Division invited us to meet with Voting Section staff who worked during the time of the November 2000 election and that we declined this invitation. We did not receive an invitation from officials in the Civil Rights Division, who arranged our meetings with Voting Section staff, to meet to discuss the November 2000 election logs. Throughout this review, we requested meetings with Voting Section and Civil Rights Division officials. It is always our preference, as part of our work, to meet with agency officials to discuss issues and questions we may have about agency processes, procedures, and documentation. However, Civil Rights Division officials preferred that we provide questions in writing and to respond to those questions in writing. The Civil Rights Division sometimes took weeks to respond in writing, which contributed significantly to the length of time it took us to complete our review. Had Civil Rights Division officials been more willing to meet with us to explain the Voting Section's processes and discuss the documentation provided to us, rather than rely on written questions and responses, the time required for this review could have been significantly reduced.

DOJ's written comments are in attachment V. DOJ also provided technical comments from the Criminal Division's Public Integrity Section and from the Civil Rights Division, which we incorporated as appropriate. The Civil Rights Division provided additional information on cases initiated for calendar years 2002, 2003, and 2004. The 2002 and 2003 cases involved enforcement under Sections 2 and 208 of the Voting Rights Act and were not clearly identifiable in the ICM system as also involving language minority issues under Section 203 of the Voting Rights Act. The Civil Rights Division subsequently identified these cases as including enforcement of language minority violations, and we have included them in our report. Information on cases initiated in calendar year 2004 had not been included because our review covered complete calendar years, but we have added information on cases initiated in 2004 as of August 2004 as a courtesy to the Division.

As agreed with your offices, unless you publicly release its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we


will send copies of this report to the Attorney General, Department of Justice; Chairman, Senate Committee on Governmental Affairs; Chairman, House Committee on Government Reform; Chairman, House Committee on the Judiciary; Chairman and Ranking Minority Member, House Committee on House Administration; and Chairman and Ranking Minority Member, Senate Committee on Rules and Administration. Copies of this report will be made available to other interested parties upon request. This report will also be available on GAO's Web site at <http://www.gao.gov>. If you have any questions, please contact me at (202) 512-8777 or by e-mail at jenkinswo@gao.gov or Linda Watson, Assistant Director, at (202) 512-8685 or by e-mail at watsonl@gao.gov. Key contributors to this report were Katherine Davis, Gina Flacco, Evan Gilman, Geoffrey Hamilton, Mary Martin, Maria Santos, and Daniele Schiffman.




William O. Jenkins, Jr.
Director, Homeland Security and Justice Issues

Enclosures


Enclosure I

 <p style="text-align: right;">Enclosure I</p> <hr/> <p style="text-align: center;">DOJ Activities to Address Past Election-Related Voting Irregularities</p> <hr/> <p style="text-align: center;">Results of work completed for the Ranking Minority Member of the House Committee on Government Reform, Ranking Minority Member of the House Committee on the Judiciary, and Ranking Member of the Senate Committee on Governmental Affairs</p> <p style="text-align: center;">August 31, 2004</p> <hr/> <p style="text-align: right;">1</p>


Enclosure I

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<ul style="list-style-type: none">• Objectives• Results in Brief• Scope and Methodology• Background• Changes to Ensure Voter Access• Actions to Track, Address, and Assess Allegations• Assessment of Internal Controls• Conclusions• Recommendations• Attachment I—Federal Voting Rights Statutes• Attachment II—Role of the Criminal Division’s Public Integrity Section• Attachment III—Election Jurisdictions Monitored during 2000-2003• Attachment IV—Election-Related Preliminary Investigation, Matters, and Cases Initiated from November 2000 to December 2003• Attachment V—Agency Comments	
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Enclosure I

	Objectives
This briefing addresses the following objectives:	
<ol style="list-style-type: none">1. Identify and describe any changes the Department of Justice (DOJ) has made since November 2000 to help ensure voter access to the polls. 2. Identify and describe any actions that the Voting Section in DOJ's Civil Rights Division has taken to track (monitoring work initiated and actions taken), address, and assess allegations of election-related voting irregularities received between November 2000 and December 2003.<ul style="list-style-type: none">• Election-related refers to a preliminary investigation, matter, or case that the Voting Section initiated pursuant to an allegation about a specific election.	
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	Objectives
<ul style="list-style-type: none"> • A preliminary investigation is an investigation into an allegation that has not been assigned an identification number. A matter is an activity that has been assigned an identification number but has not resulted in a court filing of a complaint, indictment, or information. A case is an activity that has been assigned the same identification number that it had as a matter and has resulted in the court filing of a complaint, indictment, or information. • Voting irregularities, for purposes of this review, generally refer to a broad array of complaints relating to voting and/or elections that may involve violations of federal voting rights and/or federal criminal law for which DOJ has enforcement responsibilities. <p>3. Assess the Voting Section's internal control activities to help ensure relevant, accurate, and reliable recording and documentation of allegations of voting irregularities for management decision-making and external reporting purposes.</p> <ul style="list-style-type: none"> • Internal controls are integral components of an organization's management that provide reasonable assurance of objectives that include, among other things, efficient operations. They comprise the plans, methods, and procedures used to meet missions, goals, and objectives and, in doing so, support performance-based management. 	
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	Results in Brief
<ol style="list-style-type: none">1. Since November 2000, DOJ has increased its monitoring of election activities on election day, provided additional training to Assistant U.S. Attorneys on civil rights laws, placed a greater priority on protecting the voting rights of language minorities and overseas voters, and provided guidance to states regarding implementation of the Help America Vote Act (HAVA).2. The Civil Rights Division tracks matters and cases through a case management system. Telephone calls related to the 2000 and 2002 federal elections were tracked using telephone logs. The Voting Section addressed allegations of voting irregularities by contacting cognizant officials, obtaining data if deemed appropriate, and assessing the merits of the allegation to determine what, if any, further action was needed.3. The Voting Section tracked the unprecedented volume of telephone calls related to the November 2000 election by using logs. Some logs had several broad categories to capture the subject of the calls and rows for states from which the calls originated, while other logs contained callers' names, contact information, and description of the calls. The Voting Section improved upon the telephone log for the November 2002 election by including categories to capture the action taken on each call and to record the caller's name, telephone number, and subject of the call. The Voting Section tracked some monitoring of elections by assigning matter identification numbers.	
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Scope and Methodology

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	Scope
To address our objectives, we performed work at DOJ's:	
<ul style="list-style-type: none">• Civil Rights Division's Voting Section,• Criminal Division's Public Integrity Section (PIN),• Federal Bureau of Investigation's (FBI) Public Corruption Unit, and• Executive Office for U.S. Attorneys (EOUSA).	
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Methodology
Objective 1

To identify changes in DOJ's efforts to help ensure voter access to the polls, we

- gathered documentation on DOJ's efforts to
 - monitor and observe elections,
 - increase emphasis on enforcement of minority language and overseas voters' rights,
 - disseminate election-related guidance, and
 - increase its resources to address voting issues, and

- interviewed responsible officials primarily in DOJ's Voting Section and PIN.

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Enclosure 1


Methodology
Objective 2

To identify DOJ's actions to track, address, and assess allegations of voting irregularities, we

- interviewed officials in the Voting Section about procedures for tracking, addressing, and assessing allegations of voting irregularities;
- analyzed information on the approximately 11,000 reported telephone calls made to the Voting Section about the November 2000 election; and
- reviewed all files that the Voting Section identified as those it considered to be election-related voting irregularities that were initiated from November 2000 to December 2003. This included 1 closed preliminary investigation, 25 closed matters, and 8 closed and open cases. The Voting Section tracks its matters and cases based on statutes it enforces and not on whether an allegation relates to a specific election. Consequently, the Voting Section had to identify for us the preliminary investigation, matters, and cases that it considered to be election-related voting irregularities.

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Background

Voting Section

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Background
Voting Section

Voting Section responsibilities include:

- enforcing the Voting Rights Act, which is designed to safeguard the right to vote of racial and language minorities and illiterate persons, among other provisions;
- enforcing federal statutes designed to safeguard the right to vote of disabled, elderly, military, and overseas voters; and
- enforcing provisions of the National Voter Registration Act, and the Help America Vote Act (HAVA) which address issues such as voter registration, provisional voting, and voter information.

Attachment I provides more information on statutes that the Voting Section enforces.

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Background
Voting Section

The Voting Section, among other things, monitors election-day activities to ensure voting rights are protected and initiates investigations and opens matters to examine allegations of voting irregularities that fall within the jurisdiction of the Civil Rights Division. If warranted, a matter may culminate in a case that is filed with a federal court.

Voting Section attorneys are generally responsible for conducting investigations and prosecuting civil cases. The Voting Section also may initiate matters to monitor private lawsuits.

The Voting Section coordinates with the Criminal Division's Public Integrity Section (PIN) to help ensure voters' rights are protected, such as referring three allegations to PIN about possible election crimes related to the 2002 election. (See attach. II for more information about PIN's election-related responsibilities.)

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GAO		Background Voting Section	
Accountability • Integrity • Reliability			
The following table provides information on all matters and cases initiated by the Voting Section in calendar years 2000 through 2003.			
Year Initiated	Matters	Cases	Total
2000	70	18	88
2001	53	6	59
2002	127	18	145
2003	99	4	103
Total	349	46	395

Source: GAO analysis of data from DOJ's Civil Rights Division's Voting Section.

According to Voting Section officials, the number of matters was higher in 2002 because the Voting Section initiated new matters for each of the over 80 newly covered jurisdictions required by the Voting Rights Act to provide bilingual election materials and assistance to language minority citizens. Following the 2000 Census, DOJ, in conjunction with the U.S. Census Bureau, identified these 80 jurisdictions. The Voting Rights Act requires jurisdictions to provide language minority assistance when certain criteria are met, such as when more than 5 percent of the citizens of voting age, or more than 10,000 of the citizens of voting age, are members of a single language minority group, and are unable to speak or understand English adequately enough to participate in the electoral process.

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GAO Accountability • Integrity • Reliability		Background Voting Section
As shown in the following table, the Voting Section's positions for attorneys (authorized and on-board) increased since the beginning of fiscal year 2000.		
Time period	Authorized attorney positions	Attorneys on-board
Start FY 2000	34	31
End FY 2000	36	35
End FY 2001	47	40
End FY 2002	47	42
End FY 2003	41	38
As of April 16, 2004	41	39

Source: DOJ's Civil Rights Division's Voting Section.

The number of authorized and on-board attorneys declined at the end of fiscal year 2003 because the number of submissions to the Voting Section for redistricting changes following the 2000 Census began to decline that year, according to Voting Section officials. Every 10 years, after the federal census, states redraw their legislative election districts to make these districts equal in population. The process of drawing new election district boundaries is called redistricting.

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Changes to Help Ensure Voter Access

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	Changes to Help Ensure Voter Access Results in Brief
<p>Since November 2000, DOJ focused on ensuring voter access to the polls by</p> <ul style="list-style-type: none">• placing more emphasis on its election-monitoring program,• providing additional training for certain Assistant U.S. Attorneys who handle election-related issues that included placing more emphasis on handling civil rights issues,• directing U.S. Attorney Offices to contact election and other officials at the state and local level to offer assistance prior to election day,• placing greater priority on enforcing the voting rights of language minorities and overseas voters, and• providing guidance to states regarding HAVA implementation.	
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**Changes to Help Ensure Voter Access
Emphasis Placed on Election Monitoring**

In March 2001, the Attorney General announced that DOJ was placing more emphasis on its election-monitoring program. The Attorney General is authorized by law to notify the Office of Personnel Management (OPM) of the need to assign federal observers to monitor polling place activities on election day in counties that the Attorney General has certified under the Voting Rights Act and in counties authorized by federal court orders. The Attorney General delegates the authority with respect to federal observers to the Voting Section. The Voting Section's decision to request federal observers is based on past experience or investigations that indicated observers may be needed to protect voting rights. (See attach. I for information on the law authorizing federal observers.)

In addition to OPM federal observers, the Voting Section assigns DOJ attorneys and professional staff to monitor election day activities in local jurisdictions throughout the United States, whether or not the locations have been certified under the Voting Rights Act. This additional monitoring is part of the Voting Section's investigations of possible voting rights violations. Unlike OPM observers, DOJ attorneys and professional staff do not have specific statutory right of access to polling places and must get authority from the appropriate state and/or local officials for them to enter polling places.

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**Changes to Help Ensure Voter Access
Emphasis Placed on Election Monitoring**

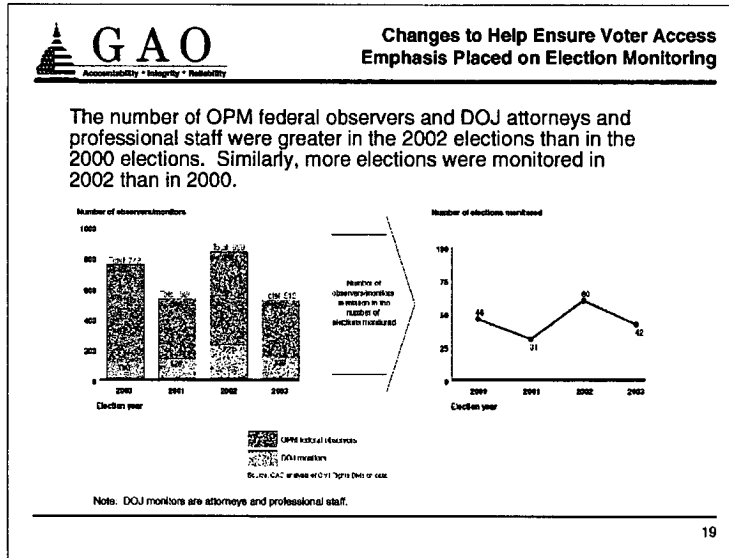
DOJ attorneys and professional staff are assigned to these jurisdictions when there may be insufficient time to arrange for federal observers in covered jurisdictions, or when the results of Voting Section staff's pre-election investigations indicate the need for some limited federal presence.

The Attorney General directed the Voting Section to increase resources devoted to the election-monitoring program through the use of OPM federal observers and DOJ attorneys and professional staff.

The level of resources used and number of elections monitored were greater in federal election years (even-numbered years) than other years, as shown in the next figure.

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**Changes to Help Ensure Voter Access
Emphasis Placed on Election Monitoring**

OPM federal observers are always accompanied by DOJ attorneys and professional staff when monitoring elections and were present for elections held during calendar years 2000 through 2003 in Attorney General-certified and court-ordered counties and jurisdictions in several states. In a few instances, DOJ attorneys and professional staff independently monitored elections in these Attorney General-certified and court-ordered counties and jurisdictions.

DOJ attorneys and professional staff also independently monitored elections in counties and jurisdictions that were not Attorney General-certified or under court order during this 4-year period. In 2000, DOJ attorneys and professional staff monitored elections in 5 counties in 5 states. By 2002, the number of election jurisdictions monitored by DOJ attorneys and professional staff increased to 19 counties in 10 states, with monitoring of elections in counties in Florida accounting for the bulk of the increase.

According to the Voting Section, election monitoring is a high-priority program of DOJ and a very important part of the Section's efforts to address voting irregularities.

See attachment III for more information on election monitoring in Attorney General-certified and court-ordered election jurisdictions and election jurisdictions that DOJ monitored independently.

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**Changes to Help Ensure Voter Access
Training**


Officials in the Voting Section and PIN said that Assistant U.S. Attorneys can attend annual public corruption conferences, where they receive (1) training on handling election crime investigations and prosecutions and (2) periodic updates to DOJ's manual on prosecuting election crimes. Starting in October 2002, additional annual training, referred to as the Ballot Access and Voting Integrity Conference, was provided to Assistant U.S. Attorneys who, in coordination with DOJ headquarters, handle election-related matters for the 93 U.S. Attorneys.

The Ballot Access and Voting Integrity Conference training, according to Civil Rights Division officials, included civil rights issues that had not been covered in the training offered to Assistant U.S. Attorneys prior to October 2002 and was designed to provide them a better understanding of what the Voting Section does to enforce federal voting rights statutes. Also, according to the Civil Rights Division, the presentations that the Voting Section made at this annual training conference placed special emphasis on the election-monitoring program and solicited the Assistant U.S. Attorneys' involvement in helping to enforce federal voting rights laws, ballot access, and the election-monitoring program. According to PIN, this training, which was mandatory for the Assistant U.S. Attorneys designated as district election officers, also covers voting integrity issues important to election crime matters.

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	Changes to Help Ensure Voter Access Training
<p>The Ballot Access and Voting Integrity Conference training was provided to Assistant U.S. Attorneys in October 2002, September 2003, and July 2004.</p> <p>The training materials for 2002 included topics related to federal voter registration and election-day statutes that the Voting Section enforces, which include the Voting Rights Act, National Voter Registration Act, and the Uniformed and Overseas Citizens Absentee Voting Act, and topics related to handling election crime investigations, trials, and the statutes and theories used to address election crimes.</p> <p>The 2003 training materials included, in addition to the same topics covered in 2002, information on HAVA and election monitoring by federal observers. According to PIN and the Voting Section, the content of the 2004 training was similar to that provided in previous years.</p>	
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**Changes to Help Ensure Voter Access
Contacts with State and Local Election Officials**

In October 2002, the Attorney General directed each U.S. Attorney to coordinate with state and local election and law enforcement officials prior to the November 2002 elections to, in part, explore ways that they could work more closely together to deter and detect discrimination and to deter and prosecute election crimes.

According to PIN officials, the Attorney General's October 2002 directive (1) formalized an ad-hoc practice that had existed in DOJ for many years of coordinating elections and election-related matters with state officials and (2) led to a systematic effort to coordinate election issues and matters with these officials.

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**Changes to Help Ensure Voter Access
Contacts with State and Local Election Officials**

Prior to the November 2002 federal elections, almost all of the U.S. Attorney Offices reported to PIN that they had contacted various state or local officials either by telephone, in writing, or in person.


The state and local officials contacted varied by each U.S. Attorney Office. For example, according to PIN,

- the three U.S. Attorneys in the state of Florida reported having met with the Florida Secretary of State and
- the U.S. Attorney for the Southern District of California reported having met with the San Diego County Registrar of Voters, Election Administrator, and Deputy District Attorney, and the Imperial County Registrar of Voters and District Attorney.

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	Changes to Help Ensure Voter Access Contacts with Civil Rights and Other Organizations
<p>The Attorney General directed the Civil Rights Division was to work with civil rights leaders, state and local election officials, and U.S. Attorney Offices prior to election day in an effort to help ensure that citizens' voting rights are protected. The Attorney General also directed the Criminal Division to work with these same groups in helping to preserve ballot integrity and prevent election offenses.</p>	
<p>According to the Voting Section, the Assistant Attorney General for the Civil Rights Division has met with representatives of civil rights organizations to discuss the Voting Section's election-monitoring program and its plans for monitoring the November 2004 election and has made other presentations concerning voting rights issues at many of these organizations' meetings and conferences. The Voting Section also said that as this election approaches, it plans to ask civil rights organizations what election jurisdictions they believe the Voting Section should consider monitoring.</p>	
<p>The Voting Section also said that since October 2002, staff from the Civil Rights Division have made presentations to, met with, or received presentations from various civil rights and other organizations, such as the NAACP, Lawyers' Committee for Civil Rights Under Law, League of United Latin American Citizens, Leadership Conference on Civil Rights, AARP, National Association of Secretaries of State, and National Association of State Election Directors.</p>	
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	Changes to Help Ensure Voter Access Language Minority Voting Rights
<p>In 2002, the Civil Rights Division made enforcement of voting rights laws that address access to voting for language minority groups one of the Voting Section's highest priorities. DOJ reported in a civil rights accomplishments fact sheet that the Civil Rights Division conducted an outreach campaign with state and local election officials and local language minority groups to help ensure access to bilingual voting materials for language minority groups. This was begun in July 2002 following the certification of covered jurisdictions based on the results of the 2000 census.</p> <ul style="list-style-type: none">• The fact sheet states that the outreach included a July 2002 letter from the then- Assistant Attorney General for the Civil Rights Division to each of the 296 political jurisdictions covered by Section 203 of the Voting Rights Act notifying them of their bilingual access obligations in the upcoming and future elections. According to the Civil Rights Division, attorneys from the Division visited many of the 296 counties covered by Section 203.• In addition, the fact sheet reported that Civil Rights Division attorneys conducted in-person meetings with state and local election officials and local language minority groups in almost all of the more than 80 newly covered jurisdictions.	
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**Changes to Help Ensure Voter Access
Language Minority Voting Rights**

We analyzed data as of March 15, 2004, on matters and cases related to Section 203 language minority issues recorded in DOJ's Interactive Case Management (ICM) system, which is used to track and manage these data. We found that the Voting Section initiated 7 matters and no cases in 2000, 13 matters and 2 cases in 2001, 94 matters and 1 case in 2002, and 28 matters and no cases in 2003. According to the Civil Rights Division, the Division also initiated the following cases: (1) two language assistance cases in 2002 under Section 2 and Section 208 of the Voting Rights Act; (2) two cases in 2003 under Section 2, Section 203, and Section 208 of the Voting Rights Act; and (3) five cases in 2004 under Section 203 of the Voting Rights Act. Sections 2, 203, and 208 of the Voting Rights Act are described in attachment I.

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**Changes to Help Ensure Voter Access
Uniformed and Overseas Citizens**

Given the large number of troops deployed overseas and an increase in concerns about late mailing of absentee ballots, Voting Section officials said that the Voting Section placed increased priority in 2004 on enforcing and preparing to ensure compliance with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), which only applies to federal elections. These officials cited the following enforcement and preparation activities during 2004.

- Obtained a court order in April for emergency relief to remedy an UOCAVA violation committed during the Pennsylvania primary election.
- Negotiated with the state of Alabama in May to obtain a similar emergency relief order from a state court for a county's failure to provide enough time for the mailing and return of ballots from overseas voters for its primary election.
- Obtained a court order in an UOCAVA lawsuit in July against the state of Georgia for similar emergency relief for its primary election.
- Established a working group of Voting Section attorneys to facilitate communications with the Department of Defense's Federal Voting Assistance Program, which is charged with administering UOCAVA, and to plan for the possibility of more UOCAVA litigation during 2004.

Our analysis of matters and cases in DOJ's ICM system as of March 15, 2004, showed that the Voting Section initiated 3 matters and 2 cases during calendar years 2000 through 2003 involving the issue of absentee voting by uniformed and overseas citizens. All 5 of the matters and cases were initiated in 2002.

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**Changes to Help Ensure Voter Access
Guidance to States on HAVA**

In October 2002, HAVA established the Election Assistance Commission to, in part, serve as a national clearinghouse and resource to compile information and review procedures related to federal election administration and provide guidance on implementing certain HAVA requirements. Because the Election Assistance Commission was not established until December 2003, the Voting Section provided informal, nonbinding guidance to states on implementing the requirements of HAVA.

The Voting Section's guidance to states on HAVA's requirements included


- interpreting requirements of the law and advising states on how to comply with them based on DOJ's enforcement role under HAVA;
- responding to inquiries from state and local officials;
- making presentations at various meetings and conferences;
- writing letters to the chief state election official, governor, and attorney general in each of the 50 states, the District of Columbia, and the U.S. territories offering to assist the jurisdictions in their efforts to ensure compliance with HAVA and summarizing HAVA provisions;
- creating a HAVA information page on its Web site; and
- issuing a press release that outlined provisions of HAVA that took effect on January 1, 2004, such as provisional voting and identification requirements for new voters who register by mail.

According to the Civil Rights Division, the Voting Section also filed its first enforcement action in California in 2004 against a county for violating the voter information provisions of HAVA.

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 GAO <small>Accountability • Integrity • Reliability</small>	Changes to Help Ensure Voter Access Plans for November 2004 Election
<p>According to Voting Section officials, DOJ's plans for helping to ensure voter access for the November 2004 election include</p>	
<ul style="list-style-type: none">• increasing its on-site monitoring of elections considerably over prior years through greater use of staff from other sections in the Civil Rights Division. Voting Section officials also said that final decisions as to where monitoring will be conducted are not made public until shortly before an election, but they told us that the Voting Section has prepared a list of jurisdictions for consideration based on consent decrees and will update the list with other jurisdictions being considered for coverage as the election approaches. According to these officials, the Voting Section has not established a specific goal for achieving an increase in staff or elections to be covered, and• coordinating with civil rights organizations that will be monitoring the election and establishing procedures for bringing their concerns about specific issues or jurisdictions to DOJ on or before election day in November 2004.	
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Enclosure 1




Actions to Track, Address, and Assess Allegations

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	Actions to Track, Address, and Assess Allegations Results in Brief
<p>In our review, we found that the Civil Rights Division had formal procedures to track matters and cases to address voting irregularities. Specifically, the Voting Section tracks investigative matters and cases through the Division's ICM system using unique identification numbers. In addition, the Voting Section tracked telephone calls alleging voting irregularities for the November 2000 and November 2002 elections using telephone logs.</p>	
<p>Voting Section attorneys addressed and assessed allegations of election-related voting irregularities initiated from November 2000 to December 2003 in various ways, depending on the allegation. Our review of files related to 1 preliminary close investigation, 25 closed matters, and 8 open and closed cases generally found that attorneys contacted cognizant officials and assessed the legal merits of evidence of alleged violations of civil rights laws.</p>	
<p>In our review of files, we found that Voting Section attorneys generally addressed allegations of voting irregularities initiated from November 2000 to December 2003 through a preliminary investigation or investigative matters and took actions such as interviewing election officials at state and local levels, interviewing voters affected by alleged voting irregularities, and meeting with civil rights groups.</p>	
<p>Our review of Voting Section files also found that Voting Section attorneys, in conjunction with supervisory attorneys, assessed information collected and determined whether (1) federal voting rights laws were violated; (2) an investigation should be closed, or (3) further action was needed by the Voting Section, such as filing a complaint with a federal court or continued monitoring.</p>	
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**Actions to Track, Address, and Assess Allegations
Tracking Allegations of Voting Irregularities**

The ICM is a database system that the Voting Section uses to track and manage matter and case data for the Section and can be used to generate reports.

Each matter and case is assigned a DJ number, which is a unique identification number. Information on matters and cases can be searched by the identification numbers, statutes, and other information maintained in the system.

The system is set up to automatically enter certain data and has required fields for which data must be entered. Voting Section staff can enter other data into the system, as appropriate.

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**Actions to Track, Address, and Assess Allegations
Tracking Allegations of Voting Irregularities**
Officials told us that the Voting Section

- receives numerous citizen calls, comments, and questions daily;
- receives telephone calls, e-mails, faxes, letters, and packages. Most of the calls and written allegations from citizens do not concern issues within the jurisdiction of the Civil Rights Division and, in such instances, the caller is often notified of this determination over the telephone and referred to other state or federal agencies with possible jurisdiction;
- documented telephone calls received at the Section's toll free telephone number using telephone logs for the 2000 and 2002 elections;
- found that only a small percentage of allegations that it received following the November 2000 election fell within its jurisdiction or presented substantive issues that merited further review. Notations on logs documenting telephone calls related to the November 2000 election indicated that some of the calls— we were unable to quantify the number of calls because of the way calls were recorded— were related to dissatisfaction with the outcome of the election or other issues such as general complaints about the election process that contained no specific allegations of violations of federal laws;
- in addition to following up with people who called the Voting Section after the November 2000 election, Voting Section staff pursued other avenues of complaints, such as complaint logs generated by the NAACP Voter Fund, hearings conducted by the U.S. Commission on Civil Rights and the NAACP, and incidents receiving a large amount of publicity, to determine if federal laws had been violated; and
- expects attorneys to find new matters for investigation in addition to assignments made by Section management.

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**Actions to Track, Address, and Assess Allegations
Tracking Allegations of Voting Irregularities**

Voting Section officials told us that on election day

- in addition to calls received by the Section at its toll-free number, an OPM federal examiner maintains a toll-free telephone number to receive calls. An examiner is a federal employee assigned by OPM to receive complaints of racial or minority language discriminatory voting practices. (See attach. I for the statute related to federal examiners.) Any allegations taken by the examiner that are deemed to require immediate attention are routed to the Civil Rights Division when received, while other allegations are transmitted after the election and reviewed to determine if further action is needed. According to the Chief of the Voting Section, they received few, if any, allegations from examiners in relation to the November 2000 election, and
- a small number of Civil Rights Division staff remain available at the Voting Section on major election days to take citizen calls, with the vast majority of Section staff at various locations around the country for monitoring purposes. Major problems that arise from these calls are routed to attorney supervisors to determine what actions are needed.

Our review of files included five matters that were initiated to monitor elections. According to Voting Section officials, this activity is not routinely tracked through the ICM, but they plan to designate a single identification number to track this activity.

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**Actions to Track, Address, and Assess Allegations**
Actions to Address Allegations


The following presents information on the Voting Section's process for addressing allegations related to voting irregularities.

- If the Voting Section deems that a voting allegation falls within its jurisdiction and appears to have merit, an attorney is assigned to make inquiries about the allegation. The attorney performs some investigative work to determine whether the allegation should be pursued.
- If an attorney believes a matter should be investigated, the attorney discusses this with the Deputy Chief responsible for the state in which the matter rises. The Section Chief and Deputies decide whether or not to formally open a matter. The Voting Section assigns a number to the matter for tracking purposes.
- When Voting Section staff monitor elections and receive allegations of or information about voting irregularities while on site, they make efforts to resolve allegations by contacting local election officials immediately. Further investigation of such irregularities is conducted after an election if the allegation was not resolved on election day or if it is deemed otherwise necessary to prevent such problems from arising in the future.


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	Actions to Track, Address, and Assess Allegations Actions to Address Allegations
<p>Our file review found that the Voting Section generally took the following actions during its investigations initiated from November 2000 to December 2003:</p>	
<ul style="list-style-type: none">• Interviewed state and county election officials, other state and county officials who may provide insight into the investigation, state Attorneys General, voters raising the allegations, and representatives from the NAACP and other minority groups.• Requested documentation detailing certain election procedures.• Facilitated the resolution of allegations and issues that arose during elections, when monitoring elections. If Voting Section staff monitoring elections received allegations about voting irregularities, they immediately took steps to resolve the allegations by contacting local election officials.• Where deemed appropriate, filed enforcement actions in federal court against jurisdictions that allegedly violated federal voting rights laws by either obtaining judgments against them or entering into consent decrees with jurisdictions that agree to remedy their alleged violations of federal voting statutes.	
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	Actions to Track, Address, and Assess Allegations Actions to Assess Allegations
<p>Following the investigation of a preliminary investigation or matter, a Voting Section attorney, in conjunction with a supervisor, determines whether the allegation has merit, whether the preliminary investigation or matter should be pursued further, or whether the preliminary investigation or matter should be closed. The determination to close a matter or pursue it as a case is a legal judgment and is often based on whether there is deemed to be a sufficient evidence of violations of voting rights laws and whether the state or local election officials have taken action to correct problems.</p> <p>The Voting Section identified a total of 34 closed investigations and open and closed cases initiated between November 2000 and December 2003 that it considered to involve election-related voting irregularities: 1 closed preliminary investigation, 25 closed matters, and 8 open and closed cases.</p> <p>The preliminary investigation was closed because the Voting Section concluded that the allegation lacked merit.</p>	
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	Actions to Track, Address, and Assess Allegations Actions to Assess Allegations
<p>For the 25 closed matters:</p> <ul style="list-style-type: none"> • 13 were closed because the Voting Section concluded that the allegations lacked merit; • 5 were closed because the state or voting jurisdictions took actions to resolve the issues (e.g., one state passed an election law, and the Voting Section approved changes to election procedures that one city had proposed); • 4 were closed following the completion of elections, and the Voting Section provided feedback or observations related to election procedures while monitoring elections; • 2 were closed because voting jurisdictions implemented changes for future elections; and • 1 was closed because a state court issued an order addressing the issue. <p>For the 8 cases:</p> <ul style="list-style-type: none"> • 6 are open pending fulfillment of consent decrees entered into on behalf of DOJ and the jurisdiction in alleged violation of statute, and • 2 are closed because consent decrees entered into on behalf of DOJ and the jurisdictions in alleged violation of statutes required states to take corrective actions and states did so by passing legislation, among other actions. <p>Attachment IV provides detailed information on the results of our file review of the 34 closed preliminary investigation and matters and open and closed cases initiated from November 2000 to December 2003 that the Voting Section considered as involving election-related voting irregularities.</p>	
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Assessment of Internal Controls

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	Assessment of Internal Controls Results in Brief
<p>In our review, we found that</p> <ul style="list-style-type: none">• the Voting Section tracked telephone calls related to the November 2000 election by using telephone logs. Some logs had several broad categories to capture the subject of the calls, rows for states from which the calls originated and, for the most part, tabulated the numbers of calls using tick marks. Other logs that the Voting Section used contained information such as callers' names, telephone numbers, and descriptions of the calls. The Voting Section improved upon the telephone log for the November 2002 election by including columns to record the action taken on each call in addition to recording the caller's name and telephone number, but has one column to capture the subject of the call, and• as mentioned previously, the Voting Section tracked some monitoring of elections by opening matters and assigning each matter an identification number. According to Voting Section officials, it has not routinely tracked election-monitoring activities through the case management system but is considering assigning one identification number to track election-monitoring activities.	
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**Assessment of Internal Controls
November 2000 Election Telephone Logs**

The Voting Section received an unprecedented volume of telephone calls in November and December 2000 related to the unusual events surrounding the November 2000 presidential election.

- The Voting Section reported to the Senate Committee on the Judiciary that it received approximately 11,000 calls related to the November 2000 election. In comparison, the Voting Section told us it received several hundred calls related to the November 2002 election. The Voting Section told us it does not have records of telephone calls related to other elections except to the extent that such telephone calls generated investigations that became matters or cases.
- According to the Voting Section, contractors were hired in November 2000 to help handle the unprecedented number of incoming telephone calls received concerning the November 2000 election to help ensure that the public would be able to voice opinions and concerns. Hiring contractors was not intended as a mechanism to gather specific allegations.
- Voting Section staff and contractors kept telephone logs that consisted of tables with columns identifying broad categories of allegations or comments and rows with the state from which a call originated. Voting Section staff also kept two other types of logs, which included the caller's name, state, telephone number, and description of the call. Calls were recorded on most logs as tick marks, while some logs included limited narrative on the nature of the call.

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**Assessment of Internal Controls
November 2000 Election Telephone Logs**

Our analysis of the telephone call logs completed by contractors found the following:

- It was difficult to count how many calls were received because, for example, one caller could have made multiple complaints and some logs appeared to be duplicates.
- The call logs did not include a way to record calls from 4 states—Arkansas, Kansas, Montana, and North Dakota. According to Voting Section officials, these 4 states were left off the contractor logs inadvertently, although these officials noted that they were unaware of any calls received from these states. Our analysis found that Voting Section staff recorded having received calls from some of these states.
- Columns that were used to record callers were labeled voter fraud, irregularities, request investigation, re-vote, and general comments. In some of the logs, the columns were re-labeled manually to tally additional types of comments. The broad nature of these column labels to record information about the nature of the calls and the limited narrative sometimes included on logs did not always provide sufficient information to determine whether the Voting Section should initiate an investigation.
- The telephone logs did not include information on callers' contact information such as telephone numbers.

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**Assessment of Internal Controls
November 2000 Election Telephone Logs**

Some of the telephone logs that Voting Section and contractor staff completed included comments indicating allegations that people may have been prevented from voting. According to the Voting Section, Voting Section personnel reviewed logs on an ongoing basis and efforts were made to contact callers who provided telephone numbers and whose messages indicated possible violations of federal civil rights statutes. The Voting Section does not have records indicating how many such return calls were made and noted that return telephone contact information was not always provided or asked for.

According to Voting Section officials, an assessment of the calls led them to determine that most of the calls focused on concerns about the election situation in Florida, often from citizens in states other than Florida, and that few allegations included substantive information about possible violations of federal law. However, the information on the November 2000 telephone logs is not precise enough to document this assessment.

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**Assessment of Internal Controls
November 2002 Election Telephone Logs**


For the November 2002 federal election, the Voting Section assigned staff to receive calls; provided instructions for how to handle calls from citizens, the press, members of Congress, and others; and provided state contact information to refer callers to state officials, when appropriate.

According to Voting Section officials, a telephone log was used to record calls received. The telephone log included columns to record time of call; caller information for name, city, state, and telephone number; subject; and action. No instructions were provided with the telephone log about how to complete it regarding the type of information to be included in the subject or action columns.

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	Assessment of Internal Controls Plans for the November 2004 Election
<p>According to the Civil Rights Division, the Voting Section plans to ensure that it has full capability to receive and respond, as appropriate, to all calls related to the November 2004 general election in the most expeditious way possible. Division officials further stated that the Voting Section has procedures in place to track and respond to telephone calls that it might receive in relation to the November 2004 general election.</p>	
<ul style="list-style-type: none">• Specifically, the Civil Rights Division told us that the Voting Section plans to use a telephone log such as the one used for the November 2002 election to record information on the caller's name, time of call, city and state, telephone number, subject of the call, and action taken on the call. The Division noted that the November 2002 log or any log that the Voting Section might use for the November 2004 election is a tool to ensure that the Voting Section does not miss calls raising important concerns over which it has jurisdiction and is not intended to definitively track all election-related allegations received.	
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**Assessment of Internal Controls
Plans for the November 2004 Election**

The Civil Rights Division also cited other procedures that the Voting Section plans to use to track and respond to possible telephone calls related to the November 2004 general election. These procedures will include the Voting Section

- continuing its practice of assigning its staff to specific states for the purpose of reviewing citizen calls and letters;
- keeping a sufficient number of staff and supervisory attorneys in headquarters on election day to handle calls and to respond to allegations referred from Voting Section staff monitoring elections in the field on that day; and
- using contractors, if needed, to take telephone calls. The Division plans to determine the need to use contractors on a case-by-case basis.

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Conclusions and Recommendations

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 GAO <small>Accountability • Integrity • Reliability</small>	Internal Controls Conclusions
<ul style="list-style-type: none">• The Voting Section received an unprecedented number of calls related to the November 2000 election and took steps to document telephone calls. According to the Voting Section, it also documented calls for the November 2002 election for which far fewer calls were received. The 2000 and 2002 election telephone logs differed somewhat in format, and improvements were made regarding how information was collected on the 2002 election telephone log. The Voting Section did not provide written instructions to contractors in November 2000 about how to complete the logs, but did provide written instructions to DOJ staff on completing some of the information for the 2002 logs. However, both logs lack precision for documenting the nature of the call and actions taken because broad categories were used to capture information on the call.	
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Internal Controls
Conclusions

- Predictions of another close presidential election in November 2004, possible voter confusion over new requirements in the Help America Vote Act, and possible questions regarding voting equipment could result in the Voting Section again receiving a large number of telephone calls and possibly result in the use of contractors to handle calls since most of the Voting Section staff are monitoring election sites on election day. If the Voting Section collects more precise information about such calls, it is in a better position to assure the public that it addressed allegations of voting irregularities; if it documents actions taken more precisely, it is better able to reassure the public and Congress of its commitment to enforce federal voting rights statutes.
- The Voting Section has emphasized the importance of its monitoring of election day activities, yet the monitoring program has not been routinely tracked in the ICM system, its formal process for tracking and managing work activities. Voting Section officials told us they were considering tracking this program in the future, and we believe the significance of this program warrants a more formal tracking of monitoring efforts and resources dedicated to the program.

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	Recommendations
<p>Confidence in election processes is of utmost importance. To help ensure confidence in the integrity of our voting processes, the Voting Section plays an important role in addressing voting irregularities. By accurately recording and documenting its activities in as clear a manner as possible, the Voting Section contributes to assuring the public and Congress of the integrity of our voting processes.</p>	
<p>To reassure citizens of the integrity of our election processes and to reassure the public and Congress of DOJ's commitment to its responsibility to enforce federal voting rights statutes, we recommend that the Assistant Attorney General for the Civil Rights Division direct the Chief of the Voting Section to</p>	
<ul style="list-style-type: none">• develop and implement procedures for the November 2004 election to ensure that the Voting Section has a reliable method of tracking and documenting allegations of voting irregularities and actions taken to address them. Procedures could include more precise categories for recording types of allegations, more precise categories to record actions taken, development of instructions on completing the telephone logs, and development and implementation of training for contractors, should they be needed, and• implement a method to track and report on election monitoring program activities in the Interactive Case Management system.	
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Attachment I**Voting Laws Enforced by the Voting Section Relevant to Contents of Briefing and Its Attachments**

According to the Voting Section, to carry out its mission, the Voting Section brings lawsuits against states, counties, cities, and other jurisdictions to remedy denials and abridgements of the right to vote; defends lawsuits that the Voting Rights Act authorizes to be brought against the Attorney General; reviews changes in voting laws and procedures administratively under Section 5 of the Voting Rights Act; and monitors election day activities through the assignment of federal observers under Section 8 of the Voting Rights Act. Provided below are short descriptions of some of the primary voting laws enforced by the Voting Section.

Voting Rights Act Provisions

- **Section 2 of the Voting Rights Act (42 U.S.C. § 1973)**

Section 2 of the Voting Rights Act establishes a nationwide ban against any state or local election practices or procedures that deny or abridge a citizen's right to vote on account of race, color, or membership in a language minority group.⁴ The Voting Rights Act provides that plaintiffs may establish a violation of Section 2 by demonstrating that "the political processes leading to nomination or election" deny members of the protected classes an equal opportunity to participate in the political process and to elect representatives of their choice. A court, under the Voting Rights Act, may also consider the extent to which members of the protected class have been elected to office in the jurisdiction, though Congress made clear that Section 2 does not confer upon protected classes a right to proportional representation.

- **Sections 203 and 4(f)(4) of the Voting Rights Act (42 U.S.C. §§ 1973aa-1a, 1973b(f)(4))**

Sections 203 and 4(f)(4) are the language minority provisions of the Voting Rights Act and require certain covered jurisdictions to provide bilingual election materials and assistance based on census data pertaining to the population of citizens of voting age with limited English proficiency and their rate of illiteracy. With respect to Section 203, the Voting Rights Act requires jurisdictions to provide language minority assistance when certain criteria are met, such as when more than 5 percent of the citizens of voting age or more than 10,000 of the citizens of voting age are members of a single language minority group, and are unable to speak or understand English adequately enough to participate in the electoral process.

⁴ 42 U.S.C. §§ 1973, 1973b(f)(2).

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- **Section 208 of the Voting Rights Act (42 U.S.C. § 1973aa-6)**

Section 208 of the Voting Rights Act authorizes voting assistance for blind, disabled, or illiterate persons. A voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union.

- **Section 5 of the Voting Rights Act (42 U.S.C. § 1973c)**

Under Section 5 of the Act, "covered"⁴ jurisdictions may not change their election practices or procedures until they obtain federal "preclearance" for the change. The act provides for either judicial or administrative preclearance. Under the judicial mechanism, covered jurisdictions may seek declaratory judgment from the United States District Court for the District of Columbia that the change has neither the purpose nor the effect of discriminating against protected minorities in exercising their voting rights. Under the administrative mechanism, covered jurisdictions may seek the same determination from the Attorney General. The Attorney General may deny preclearance by interposing and objection to the proposed change within 60 days of its submission.

- **Section 6 of the Voting Rights Act (42 U.S.C. § 1973d)**

Section 6 of the Voting Rights Act provides for the appointment of federal examiners by order of a federal court or, with respect to certain covered jurisdictions, upon certification by the Attorney General. Federal examiners help to register voters by determining whether a citizen meets state eligibility requirements and must therefore be included in the registration rolls. A federal court, under the Voting Rights Act, may order the appointment of federal examiners to any jurisdiction sued under any statute to enforce certain constitutional voting guarantees.⁵ In covered jurisdictions, the Attorney General may appoint examiners upon certification that the Attorney General has received at least 20 meritorious written complaints of voting discrimination or that the Attorney General otherwise believes that the appointment of examiners is necessary to protect voting rights.

⁴ The jurisdictions targeted for "coverage" are those evidencing discriminatory voting practices, based upon a triggering formula, as defined in Section 4 of the Voting Rights Act (42 U.S.C. 1973b). The Attorney General and the Director of the Census have responsibility for determining which jurisdictions are covered by the triggering formula, and their determinations are not reviewable in any court and are effective upon publication in the *Federal Register*.
⁵ See also, section 3 of the Voting Rights Act (42 U.S.C. § 1973a).

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- **Section 8 of the Voting Rights Act (42 U.S.C. § 1973f)**

Under Section 8 of the Voting Rights Act, federal observers may be appointed, upon request of the Attorney General, in any jurisdiction where an examiner is serving. Federal observers are to monitor elections and report whether persons entitled to vote were allowed to vote and whether their votes were properly counted.

- **Section 11(b) of the Voting Rights Act (42 U.S.C. § 1973i(b))**

Section 11(b) of the Voting Rights Act prohibits persons, whether acting under color of law or not, from intimidating, threatening, or coercing, or attempting to intimidate, threaten or coerce, any person for voting or attempting to vote. Section 11(b) further prohibits intimidation, threats, or coercion of those persons aiding other persons in voting or exercising certain powers or duties under the Act.

Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 U.S.C. §§ 1973ff to 1973ff-6)

The Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA), in general, requires states and territories to allow absent uniformed service voters, their spouses and dependents, and certain other overseas voters to register and vote absentee in elections for federal office. UOCAVA requires, for example, that a presidential designee prescribe a federal write-in absentee ballot for all overseas voters in federal elections. The ballot is to be used if the overseas voter applies for, but does not receive, a state absentee ballot.⁷ While state law, in general, governs the processing of these federal write-in ballots, UOCAVA requires that states permit their use in federal elections.⁸

National Voter Registration Act (42 U.S.C. §§ 1973gg to 1973gg-10)

The National Voter Registration Act of 1993 (NVRA) established procedures designed to "increase the number of eligible citizens who register to vote in elections Federal office," while protecting "the integrity of the electoral process" and ensuring the maintenance of "accurate and current voter registration rolls."⁹ NVRA requires all states to adopt certain federal voter registration procedures, except for those states that have no registration requirements or that permit election-day registration with respect to federal elections.¹⁰ NVRA, for example, requires states to allow applicants for driver's licenses to register to vote on the same form.¹¹ NVRA also requires states

⁷ 42 U.S.C. § 1973ff-2(a).

⁸ *Id.* § 1973ff-1(3).

⁹ 42 U.S.C. § 1973gg.

¹⁰ 42 U.S.C. § 1973gg-2.

¹¹ *Id.* § 1973gg-3(a).

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to provide voter registration forms and accept completed applications at various state agencies, including any office in the state providing public assistance, any office in the state that provides state-funded disability programs, and other agencies chosen by the state, such as state licensing bureaus, county clerks' offices, public schools and public libraries.¹² NVRA also contains detailed requirements regarding state removal of names from federal registration rolls.¹³

Voting Accessibility for the Elderly and Handicapped Act of 1984 (42 U.S.C. §§ 1973ee to 1973ee-6)

Congress has passed legislation intended to improve access for elderly and handicapped individuals to registration facilities and polling places for federal elections. The Voting Accessibility for the Elderly and Handicapped Act of 1984 requires, with some exceptions, that political subdivisions within each state that are responsible for conducting elections assure that polling places and registration sites are accessible to handicapped and elderly voters.¹⁴ If the political subdivision is unable to provide an accessible polling place, it must provide an alternative means for casting a ballot on election day upon advance request by the voter.¹⁵ The act's requirements also include, for example, that each state or political subdivision provide a reasonable number of accessible permanent registration facilities, and that each state make available certain types of voting and registration aids such as large-type instructions and information by telecommunication devices for the deaf.¹⁶

Title II of the Americans with Disabilities Act (42 U.S.C. §§ 12131 to 12134) (enforced by the Disability Rights Section of the Civil Rights Division)

Title II of the Americans with Disabilities Act prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of State and local governments. According to the Voting Section, as construed by the courts, Title II requires that polling places be accessible to persons with disabilities with certain exceptions.

Help America Vote Act (42 U.S.C. §§ 15301 to 15646)

The Help America Vote Act of 2002 (HAVA), among other things, established a program to provide funds to states to replace punch card voting systems, established the Election Assistance Commission to assist in the administration of federal elections and to otherwise provide assistance with the administration of certain

¹² *Id.* §§ 1973gg-5(a)(2), (a)(3), (a)(4), (a)(6)(A)(i).

¹³ *Id.* § 1973gg-6(b).

¹⁴ 42 U.S.C. §§ 1973ee to 1973ee-6.

¹⁵ *Id.* § 1973ee-1(b)(2)(ii).

¹⁶ *Id.* § 1973ee-2, 1973ee-3.

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federal election laws and programs, and established minimum election administration standards for States and units of local government with responsibility for the administration of federal elections. Certain HAVA provisions including those relating to voting system standards, provisional voting and voting information requirements, and computerized statewide voter registration lists are to be enforced by the Attorney General.¹⁷

¹⁷ 42 U.S.C. § 15511.

Attachment II

Role of the Criminal Division's Public Integrity Section in Federal Elections

The Public Integrity Section (PIN), in conjunction with the 93 U. S. Attorneys and the FBI, is responsible for enforcing federal criminal laws applicable to federal election fraud offenses, among other things. Election fraud is conduct that corrupts the electoral processes for: (1) obtaining, marking, or tabulating ballots; (2) canvassing and certifying election results; or (3) registering voters. Election fraud can be committed with or without the participation of voters. Examples of election fraud that does not involve voter participation are ballot box stuffing, ghost voting, and "nursing home" frauds. Examples of election fraud that involves, at least to some extent, voter participation are vote buying schemes, absentee ballot fraud, voter intimidation schemes, migratory-voting or floating-voter schemes, and voter "assistance" fraud in which the voters' wishes are ignored or not sought. According to a PIN official, its attorneys spend about 10 percent of their time on election fraud investigations and trials.

PIN is also responsible for overseeing the U.S. Attorneys' and the FBI's investigation and prosecution of federal election fraud, one of the most common types of alleged federal election crimes. PIN's oversight entails (1) advising investigators and prosecutors on the application of federal criminal laws to election crimes, (2) reviewing all major election crime investigations and all proposed election crime charges, and (3) assisting with implementing DOJ's District Election Officer (DEO) program. Under the DEO program, PIN asks each of the 93 U.S. Attorneys to appoint an Assistant U.S. Attorney to serve a 2-year term as a DEO and provides training and guidance to DEOs on carrying out their responsibilities. DEOs, whose responsibilities are performed in conjunction with their other responsibilities, are to

- screen and conduct preliminary investigations of complaints, in conjunction with the FBI and PIN, to determine whether they constitute potential election crimes and should become matters for investigation;
- oversee the investigation and prosecution of election fraud and other election crimes in their districts;
- coordinate their district's (investigative and prosecutorial) efforts with DOJ headquarters prosecutors;
- coordinate election matters with state and local election and law enforcement officials and make them aware of their availability to assist with election-related matters;
- issue press releases to the public announcing the names and telephone numbers of DOJ and FBI officials to contact on election day with complaints about voting or election irregularities and answer telephones on election day to receive these complaints; and
- supervise a team of Assistant U.S. Attorneys and FBI special agents who are appointed to handle election-related allegations while the polls are open on election day.

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Our analysis of information from PIN on election fraud matters showed that U.S. Attorneys and PIN attorneys initiated a total of 61 election fraud matters, or investigations, related to election years 2000 through 2003. Most of the 61 matters related to elections held in 2002. Matters were initiated in 28 states and 1 U.S. territory (the U.S. Virgin Islands) and ranged from 1 to 7 matters per state/territory over the 4-year period. The most frequent allegations of election fraud were for absentee ballot fraud and vote buying. According to PIN, many of these matters resulted in indictments and subsequent convictions.

According to the Criminal Division, the information provided by PIN does not include all election fraud investigations that the U.S. Attorneys have initiated because (1) U. S. Attorneys are not required to consult with PIN for preliminary investigations as opposed to grand jury investigations, which require consultation; (2) PIN did not track election fraud investigations prior to October 2002; and (3) election fraud investigations are sometimes initiated under non-election statutes.

Attachment III

Election Jurisdictions Monitored during Calendar Years 2000 through 2003

Table 1: Attorney General-Certified Election Jurisdictions Monitored during Calendar Years 2000 through 2003

State	Election jurisdictions monitored during			
	2000	2001	2002	2003
	Hale County		Hale County	
	Selma (Dallas County)*		Chambers County	
	Lowndes County			
Arizona	Apache County		Apache County	
	Navajo County		Navajo County	
Georgia	Randolph County*		Randolph County	
	Brooks County			
	Sumter County			
	Twiggs County			
Louisiana		Tensas Parish		
Mississippi	Aberdeen (Monroe County)*	Clarksdale (Coahoma County)*	Adams County	Greenville (Washington County)
	Bolivar County	Isola (Humphreys County)	Amite County	Humphreys County
	Grenada County	Macon (Noxubee County)	Centerville (Wilkinson County)	Noxubee County*
	Neshoba County	Sunflower (Sunflower County)	Drew (Sunflower County)	Neshoba County
	Newton County			Newton County
		Vicksburg (Warren County)*		Kemper County
		Webb (Tallahatchie County)		Jones County
				Winston County
New York	Kings County	Kings County	Kings County	
	New York County	New York County	New York County	
		Bronx County		
South Carolina	Marion County*	Ridgeville (Dorchester County)	Ridgeville (Dorchester County)*	
Texas	Irving (Dallas County)	Irving (Dallas County)	Titus County	
Total jurisdictions	19	11	13	9

Source: GAO's analysis of election monitoring data provided by DOJ's Voting Section.

*Elections were monitored by DOJ attorneys and professional staff only, not OPM federal observers.
 *Three elections were held in Clarksdale (Coahoma County), Mississippi, in calendar year 2001. Only DOJ attorneys and professional staff monitored one of the three elections, held on June 5, 2001. For the remaining two elections held that year, DOJ attorneys and professional staff accompanied OPM observers in monitoring the elections.

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Table 2: Court-Ordered Election Jurisdictions Monitored during Calendar Years 2000 through 2003

State	Election jurisdictions monitored during			
	2000	2001	2002	2003
California	Alameda County ^a			
Illinois		Cicero (Cook County)		Cicero (Cook County) ^b
Louisiana				
Michigan	City of Hamtramck	City of Hamtramck	City of Hamtramck	City of Hamtramck
New Jersey	Passaic County	Passaic County	Passaic County	Passaic County ^c
New Mexico	Bernalillo County		Bernalillo County	
	Cibola County		Cibola County	
	Sandoval County		Sandoval County	
	Socorro County		Socorro County	
Pennsylvania		Reading (Barks County) ^d	Reading (Barks County) ^d	Reading (Barks County)
			San Juan County ^e	
Utah	San Juan County ^e		San Juan County ^e	
Total Jurisdictions	8	4	8	4

Source: GAO's analysis of election monitoring data provided by DOJ's Voting Section.

^aThe court order for Alameda County, California, was in effect until January 22, 2001.

^bElections were monitored by DOJ attorneys and professional staff only, not OPM federal observers.

^cA court order for St. Landry Parish was entered into on December 5, 1979. Data from the Voting Section shows that as of August 29, 2003, the court order was still in effect and that no elections were monitored at this parish during calendar years 2000 through 2003.

^dFour elections were held in Passaic County, New Jersey, in calendar year 2003. Only DOJ attorneys and professional staff monitored one of the four elections, held on May 13, 2003. For the remaining three elections held that year, DOJ attorneys and professional staff accompanied OPM observers in monitoring the elections.

^eThe court order for San Juan County, Utah, was in effect until December 31, 2002.

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Table 3: Other Election Jurisdictions Monitored during Calendar Years 2000 through 2003

State	Election jurisdictions monitored during			
	2000	2001	2002	2003
California			San Francisco County	San Francisco County
Connecticut			Waterbury (New Haven County)	
Florida		Osceola County	Osceola County	
			Duval County	Duval County
			Miami-Dade County	Miami-Dade County
			Century (Escambia County)	
			Orange County	
		Broward County		
Georgia	Putnam County		Atlanta (Fulton County)	
Hawaii				Honolulu County
Kentucky				Jefferson County
Louisiana			St. Martinville (St. Martin Parish)	Baker (East Baton Rouge Parish)
			Winnsboro (Franklin Parish)	Tangipahoa Parish
Massachusetts		Lawrence (Essex County)		Lawrence (Essex County)
Michigan	Flint (Genesee County)			
Missouri		St. Louis	St. Louis	St. Louis
New Jersey			Hudson County	
			Middlesex County	
New Mexico	McKinley County*		San Juan County	
New York		Queens County*	Queens County	New York City (Queens County)
		Suffolk County	Suffolk County	Brentwood Union Free School District (Suffolk County)
Ohio		Maple Heights (Cuyahoga County)		
South Carolina	Marion County			
Texas	Forth Worth (Tarrant County)	Bexar County	Kenedy ISD (Karnes County)	Harris County
		Comal County	Seagraves (Gaines County)	Moore County
		Guadalupe County		
Total jurisdictions	5	9	19	13

Source: GAO's analysis of election monitoring data provided by DOJ's Voting Section.

Note: DOJ attorneys and professional staff monitored the election jurisdictions shown in this table unless otherwise noted.

*OPM federal observers also monitored elections in these counties even though the counties are not under Attorney General-certification or court order.

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Summaries of Election-Related Preliminary Investigation, Matters, and Cases Initiated from November 2000 to December 2003

Election-Related Closed Matters and Open Case Initiated during November or December 2000

No.	Matter/Case	Jurisdiction	Date matter initiated	DJ No.
1	Matter	Florida	December 2000	No*
2	Matter	Hillsborough County, Florida	November 2000	No*
3	Matter	Palm Beach County, Florida	November 2000	Yes
4	Matter	Several counties in Florida	November 2000	Yes
5	Matter	DeKalb County, Georgia	December 2000	Yes
6	Matter	Gwinnett County, Georgia	November 2000	Yes
7	Case	St. Louis, Missouri	November 2000 (case filed in August 2002)	Yes

Source: DOJ Civil Rights Division.

*For the matters that the Voting Section initiated in Florida after the 2000 election, the Voting Section initially used a general DJ number for all work on investigations and inquiries related to the Florida election. This number was opened in November 2000. Subsequently, the Voting Section assigned separate DJ numbers for individual matters. The 2000 matters in Florida and Hillsborough County, Florida, were inadvertently not given an individual DJ number.

Summary of Election-Related Closed Matters and Open Case Initiated during November or December 2000

Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
1. The Voting Section received a large number of complaints alleging that Florida voters arrived at the polls expecting to be properly registered to vote, but were told that their names were not on the voter rolls. Some people who tried to vote but whose names were not on the voter rolls were often told to stand in another line so election officials could be called to verify their registrations, but many voters alleged that office phones were busy all day and registrations could not be verified. Some voters apparently left and some remained at the polls until they were apparently told they could not vote because the polls were closed.	Voting Section staff contacted individuals mentioned in complaints that the NAACP had forwarded to determine the nature of their alleged registration problems. Voting Section staff monitored election-related hearings and lawsuits in Florida to see what steps the state was going to take. The Voting Section reviewed election reform legislation that Florida enacted in 2001.	Interviews by Voting Section staff with individuals mentioned in the complaints did not reveal a distinct pattern of registration problems in any one Florida county sufficient to warrant litigation, but taken as a whole the registration complaints seemed to indicate general problems with the state of compliance with NVRA provisions for clarity and processing of voter registration forms, transmission of the forms to election officials, education of registration personnel, adherence to NVRA registration deadlines, maintenance of registration lists, ability to verify registration at the polls, and education of voters, state registration personnel, election officials, and poll workers.	Florida enacted election reform legislation in 2001 requiring, among other things, that the state implement a statewide voter registration database, permit provisional voting, and provide funds to counties for voter education and poll worker training. The Voting Section reviewed this law under Section 5 of the Voting Rights Act and precleared it on March 28, 2002. With respect to this investigation, the Voting Section noted that these reforms should help address the problems alleged to have occurred in 2000. While the Voting Section further noted that the

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			<p>new state legislation did not appear specifically to address all the NVRA-related issues, such as the voter registration process and education of motor vehicle agency and other state agency employees regarding state registration procedures and requirements in federal law, such issues could be addressed through design and implementation of the forthcoming election procedures to carry out the requirements of the new law. Therefore, the Voting Section determined that it would monitor Florida's NVRA actions in the future in light of the new state legislation and ongoing federal legislative efforts in election reform which might also impact Florida's election procedures.</p> <p>The Voting Section closed the matter because, based on its monitoring of the situation and the provisions in the state law pertinent to registration that had been precleared, it concluded that the problems which occurred in the 2000 election were being adequately addressed.</p>
<p>2. The NAACP National Voter Fund alleged (1) that on Election Day 2000, sheriff's deputies in marked cars in Hillsborough County, Florida, blocked access to a polling place, (2) that their presence</p>	<p>Voting Section staff met with, among others, officials from the county sheriff's office and several local residents, and spoke with a poll watcher to gather additional</p>	<p>The sheriff's office reported that the presence of sheriff's deputies near the polling place was related to a burglary nearby. One of the sheriff's deputies</p>	<p>The Voting Section closed the matter because the complaint lacked merit since there was no evidence on any of the</p>

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<p>had an intimidating effect on voters, and (3) that at least on one occasion they harassed a voter. An African-American man approached sheriff's deputies after they left the scene of a burglary complaining that he was not allowed to vote.</p>	<p>observations.</p>	<p>learned two days after the election that the same man who had approached the deputies on Election Day returned to the polling place and successfully voted. A poll worker observed the presence of the sheriff's cars around the same time they were responding to the burglary, and observed that no voter had been deterred from voting due to the police activity.</p>	<p>allegations raised.</p>
<p>3. It was alleged that the design of the butterfly ballot in Palm Beach County, Florida, violated federal voting rights laws.</p>	<p>The Voting Section opened a matter related to this issue and reviewed federal law for which the Section had enforcement authority to determine if any action was appropriate.</p>	<p>The Voting Section determined that there was no basis for asserting federal jurisdiction.</p>	<p>The Voting Section concluded that because it had no jurisdiction concerning this matter, no further action was warranted. In addition, according to the Voting Section, the new Florida election reform law should help to alleviate faulty ballot design by providing for greater oversight of ballot design.</p>
<p>4. Four state troopers with the Florida Department of Highway Safety and Motor Vehicles ran a driver's license checkpoint on Election Day 2000 in Leon County, Florida. This checkpoint was located near (about a mile from) a voting precinct. Another checkpoint was held in Bay and Escambia Counties. According to a highway patrol official, this checkpoint was not located near a voting precinct.</p>	<p>The Voting Section opened a matter to investigate this issue and asked the Florida State Office of the Attorney General about the checkpoint in Leon County. A Voting Section attorney also spoke with an African-American voter who was stopped at one of the driver's license checkpoints.</p>	<p>The Voting Section's investigation revealed that the Florida Highway Patrol had set up a traffic check stop close to a polling place (about a mile away) located in a predominantly African-American neighborhood. The Voting Section investigation also indicated that the troopers' traffic stop plan had not been pre-approved by their commander, as is the standard procedure. Further investigation revealed that the traffic checkpoint was in effect for about 3 hours, and a higher number of white drivers were stopped than African-American drivers. According to the Voting Section, an African-American voter who was</p>	<p>The Voting Section closed the matter because there was no evidence of intimidation or racial intent to affect or intimidate voters.</p>

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		<p>stopped was treated courteously and proceeded to vote without incident.</p>	
<p>5. A U.S. Representative raised concerns regarding long voting delays in predominantly African-American precincts in DeKalb County, Georgia during the November 2000 election. It was alleged that there were no corresponding delays in majority white precincts. In one predominantly African-American precinct, several hundred voters apparently left the precinct without voting after waiting in line for several hours. In districts with a majority of white residents, voting lines apparently moved quickly with some people being able to vote in less than 15 minutes. In addition, two people complained about possible voting irregularities during a March 2001 election.</p>	<p>A Voting Section attorney met with the following in Georgia to address these concerns: (1) the DeKalb County Elections Supervisor, (2) the Chairman of the DeKalb County Elections Board, (3) the Gwinnett County Elections Supervisor, (4) the president of the DeKalb County NAACP, (5) the Assistant DeKalb County Attorney, and (6) one of the representative's staff members. The Voting Section attorney received and reviewed documents from both counties' elections departments regarding the November 2000 election.</p> <p>The Voting Section attorney requested additional documents from the Assistant DeKalb County Attorney and DeKalb County Elections Supervisor to determine if there was an unequal division of resources among African-American and white districts. These documents outlined the budget for expenses related to the elections from 1998 through 2000.</p> <p>The Voting Section attorney also spoke with the president of the DeKalb County NAACP and the U.S. Attorney for the Northern District of Georgia.</p> <p>The Voting Section attorney spoke with the two persons alleging fraud during the March 2001 election.</p>	<p>The Voting Section attorney's analysis of the documents that DeKalb County provided revealed that most of the county's polling places that stayed open past closing time were located in majority African-American precincts. The polls' extended hours almost uniformly resulted from there being large numbers of people in line as well as insufficient numbers of poll workers and voting machines. The attorney also determined that there had been no unequal division of electoral resources between majority white and majority African-American precincts.</p> <p>According to investigations of the November 2000 election by the county's elections department, the area manager and his assistants at the main precinct of concern failed to contact the precinct office about the long lines and insufficient voting machines. The former area manager also denied the poll workers' requests for additional voting machines, stating none were available. The president of the DeKalb County NAACP, staff in the office of the U.S. Attorney for the Northern District of Georgia, and the DeKalb County Elections Supervisor did not receive complaints related to Election Day in DeKalb County.</p> <p>With respect to the March 2001 allegations, the Voting Section attorney noted that the two</p>	<p>The county implemented the following changes for the March 2001 election: (1) increased the number of voting machines, (2) assigned additional poll workers and managers, (3) assigned at least 10 additional staff members to answer telephones at the Elections Department and installed 10 more telephone lines, and (4) gave the Elections Department and area managers cell phones in case regular telephone lines were busy. The Voting Section determined that a dramatic improvement resulted from these remedial actions and, as a result, closed the matter.</p>

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		persons could not identify the precincts where alleged irregularities occurred, and that they did not have allegations of racial intimidation or vote suppression. The Voting Section attorney determined that their complaints seemed to concern Georgia state law, suggested that they explore their state law remedies, suggested that they contact the county elections department and the office of Georgia's Secretary of State, and asked them to keep the Voting Section attorney informed of developments.	
6. The Voting Section received information that people in Gwinnett County, Georgia who had registered to vote via the Georgia Department of Public Safety (DPS) were not on the voter registration rolls and were not allowed to vote. DPS operated vehicle registration sites in Georgia. Subsequently, DPS began the process of transitioning National Voter Registration Act (NVRA) responsibilities to the state's newly created Department of Motor Vehicles (DMV). It was alleged that voters were turned away from the polls and were not offered provisional ballots. Some voters were told to go to the county registration office, but officials there told them they were not allowed to vote.	The Voting Section spoke with staff in the Georgia Attorney General's office and the Georgia DPS and DMV, a voter who raised the allegations, and the Deputy Director of Elections in the Secretary of State's Office. The Voting Section monitored the transition of NVRA responsibilities from DPS to the new DMV from April 2001 to April 2002.	The Voting Section's investigation revealed that the problem likely arose from the DPS paperless system to obtain and renew a driver's license. The process seemed to result in people believing they had been registered to vote when they had not. A person who indicated the intention to register to vote did not receive any confirmation at the time of the transaction. The Voting Section's investigation revealed that since DPS implemented a paperless system in 1996, the percentage of those who registered to vote at DPS sites when they applied or renewed their licenses had dropped almost every year. There was also evidence that DPS officials knew of concerns regarding the agency's paperless registration system from its implementation.	The Voting Section closed the matter in April 2002 mostly because the state had created a new agency, the Department of Motor Vehicle Safety, to which responsibility for voter registration was in the process of being transitioned. The Voting Section determined this system would remedy the problem.
7. DOJ, on behalf of the United States, alleged that the St. Louis Board of Election Commissioners' (referred to hereafter as the Board) placement of eligible voters on	Following an investigation, DOJ filed a complaint with the U.S. District Court in the Eastern District of Missouri on August 14, 2002. On the same date,	The Voting Section alleged that the state was in violation of NVRA and filed a complaint.	The consent order gives court jurisdiction over the proceeding until January 31, 2005. The consent order

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<p>inactive status, when combined with election-day procedures that inactive voters were required to follow to restore their active voter status and vote during the November 2000 and March 2001 elections, constituted a removal of those voters from the voter registration rolls in violation of Section 8 of NVRA. As of the November 2000 general election, more than 54,000 registered voters in St. Louis had been designated as inactive and excluded from the lists of eligible voters following a series of mail canvasses that the Board conducted of its voter registration rolls. These mail canvasses did not include the notices required by Section 8(d)(2) of NVRA. The Board did not make an effort to notify inactive voters that their registration status had changed, that their names would not appear on the voter registration lists, or that they would face more administrative efforts on election day before being permitted to vote.</p> <p>As a result, certain eligible, but inactive voters, were not able to vote in the November 2000 general election and March 2001 municipal primary election due to the lack of an adequate infrastructure (i.e., insufficient phone lines, working telephones, and staff) in place to enable voters to complete the verification procedures required by the Board on election day. For the November 2000 election, over 300 eligible inactive voters were able to obtain authorization to vote after going to the Board's headquarters as instructed by the election judges.</p>	<p>DOJ entered into a consent order with the city of St. Louis.</p>		<p>requires the Board to initiate procedures to remedy the problems that occurred during the November 2000 election, such as improved methods of notifying voters who are moved to an inactive status, improved methods of canvassing, and improved resources to process eligible voters not included on the rolls on Election Day. This relief included requiring that every polling place have a complete list of registered voters, including inactive voters, and a polling place locator to assist voters in finding their correct precincts.</p> <p>The consent decree is valid until January 31, 2005. The case remains open to monitor implementation of the consent order.</p>
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Election-Related Closed Matters and Open Cases Initiated during Calendar Year 2001

No.	Matter/Case	Jurisdiction	Date matter initiated	DJ No.
1	Matter	Florida	March 2001 ^a	Yes
2	Matter	Florida	June 2001 ^a	Yes
3	Matter	Florida	June 2001 ^a	Yes
4	Matter	Florida	August 2001 ^a	No
5	Matter	Broward County, Florida	October 2001 ^a	Yes
6	Matter	Miami-Dade County, Florida	June 2001 ^a	Yes
7	Matter	Miami-Dade County, Florida	June 2001 ^a	Yes
8	Matter (election monitoring)	New York, New York	July 2001	Yes
9	Matter	Georgetown County, South Carolina	April 2001	Yes
10	Matter	Seagraves, Texas	July 2001	Yes
11	Case	Miami-Dade County, Florida	March 2001 (case filed in June 2002) ^b	Yes
12	Case	Orange County, Florida	June 2001 (case filed in June 2002) ^b	Yes
13	Case	Osceola County, Florida	June 2001 (case filed in June 2002) ^b	Yes
14	Case	Berks County, Pennsylvania	March 2001 (case filed in February 2003)	Yes
15	Case	Tennessee	April 2001 (case filed in September 2002)	Yes

Source: DOJ Civil Rights Division.

^a Each of these Florida matters was initiated in the period shortly after the November 2000 election—i.e., in November or December 2000—and was reported under the general DJ number for Florida discussed previously (see note a under the summary table for November and December 2000 and note c below). The above dates are the dates they received individual DJ numbers.

^b For the matters that the Voting Section initiated in Florida after the 2000 election, the Voting Section initially used a general DJ number for all work on investigations and inquiries related to the Florida election. This number was opened in November 2000. Subsequently, the Voting Section assigned separate DJ numbers for individual matters. The 2000 matters in Florida and Hillsborough County, Florida, were inadvertently not given an individual DJ number.

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Summary of Election-Related Closed Matters and Open Cases Initiated during Calendar Year 2001			
Description based on Voting Section Information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
<p>1. There were allegations made by students at Florida A&M University (FAMU) in Tallahassee (Leon County), Florida, and Bethune-Cookman College in Daytona Beach, Florida, regarding discriminatory treatment of African-American students in the registration process or at the polls. First-time voters, apparently unfamiliar with the registration process, had greater difficulty registering to vote. Older students did not seem to have such difficulty.</p>	<p>The Voting Section's investigation consisted of phone interviews with Bethune-Cookman students, on-campus interviews of FAMU students and student government leaders, and a review of statements taken by a representative of the Service Employees International Union legal department working in association with the NAACP.</p> <p>A Voting Section attorney interviewed three students on FAMU's campus who claimed to experience difficulty voting, but were able to vote. The Voting Section attorney left his contact information with FAMU's student government association for any individuals who wanted to give statements regarding voting problems but could not meet with the attorney.</p> <p>The Voting Section attorney attempted to contact all ten students from Bethune-Cookman, but was only able to speak with three. The attorney sent letters to the remaining students but never received responses to the letters.</p> <p>The Voting Section attorney followed up with his contacts at FAMU, but the Voting Section did not receive any response from students to its efforts to conduct further inquiries. The student government association</p>	<p>The Voting Section determined that the problems were likely attributable to voter confusion, not racial animosity. The Voting Section noted that the incidents of the three FAMU students who successfully voted were isolated incidents, and since each student ultimately voted, the problems they suggested did not suggest a pattern of intimidation or attempted vote denial.</p> <p>The Voting Section concluded that most of the allegations were likely to have been the result of students not being familiar with the voting process. Many students had registered at their permanent home addresses and did not understand they had to re-register in Leon County. The Voting Section found that voter inexperience and confusion were to blame at Bethune-Cookman, not any pattern of discriminatory treatment.</p>	<p>The Voting Section closed the matter because it lacked merit based on the evidence gathered during the investigation.</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	<p>also posted and distributed flyers and sent out internet notices with the attorney's contact information. Neither the attorney nor the student association at FAMU received additional allegations of voting irregularities.</p>		
<p>2. Beginning in 1999, under Florida state law, the state contracted with a firm to compare names of registered voters with names of convicted felons who under Florida law were disqualified from voting. The state elections division sent lists of felon names for each of Florida's 67 counties to election officials in those counties for investigation and purging. The Voting Section was concerned that county and state actions with regards to the purging process may have been flawed and impermissible under NVRA. The Voting Section questioned whether eligible voters had been inadvertently removed from the voter rolls.</p>	<p>The Voting Section reviewed testimony from Florida election officials and representatives of the company that compiled the database and obtained information on how the lists of felons' names were matched to voter registration lists. The Voting Section also did extensive additional investigation to determine whether the method in which Florida compiled a list of felons and how they purged these felons violated any of the statutes enforced by the Voting Section.</p> <p>In addition, the Voting Section reviewed Florida's 2001 election reform law pursuant to Section 5 of the Voting Rights Act. This review included provisions of the new law related to the voter purge procedures that were the subject of the investigation.</p>	<p>The evidence gathered by the Voting Section showed that the matching at the state level was set up in a way that it captured names that were less than definite matches. The Voting Section also learned that after receiving the state-generated list, counties' actions varied. For example, some counties refused to use the list because they perceived it to contain many errors. Other counties sent letters to all the people on the state's list telling them that their names were matched to those of disqualified felons, and they would be required to show their eligibility to vote or be removed from the rolls. The Voting Section determined that evidence gathered for this matter was inconclusive, but showed there was a possibility that voters could have been removed in violation of federal law.</p> <p>With respect to the Section 5 review of the 2001 election reform law, this law was precleared on March 28, 2002 after careful review. Preclearance was granted only after receiving explicit assurances from the Attorney General of Florida describing how the law would be implemented with respect to voter purge lists.</p>	<p>The Voting Section closed the matter in April 2002. The closing memo noted that the new statute appears to require no additional procedures for accurate name matching compared to the old law. It also noted that the new statute appeared to codify a procedure used by many counties under prior law where voters whose names are matched by the state must affirmatively prove their eligibility to avoid removal.</p> <p>However, the Voting Section closing memo also noted that the new voter purge procedures (which included the assurances made by the Attorney General of Florida to protect voters from erroneous purging) had been precleared on March 28, 2002. It further stated that the Florida felon purge statute in effect at the time of the 2000 election no longer existed and that any litigation against it based on how that law was implemented would be moot. Based on these two factors, the matter was closed.</p> <p>The memo also stated that the Voting Section may open a new investigation depending on any information received regarding the operation of the new statute and related regulations.</p> <p>Finally, the closing memo</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
		<p>generated by the state pursuant to the new state law. These assurances included (1) a statement that there would not be a presumption in favor of the accuracy of the statewide database, and any presumption would be in favor of the voter and (2) the appearance of a voter's name on any voter purge list of potentially ineligible voters generated by the state would not by itself confirm a voter's ineligibility, and that the burden of determining ineligibility was on county supervisors of elections, a burden which must meet the highest degree of proof. These assurances were specifically noted when preclearance was issued by the Voting Section.</p>	<p>also made note of pending litigation in the case of <i>NAACP v. Harris</i>, which included allegations that the voter purge list used in 2000 violated the NVRA. Subsequent to the April 2002 closing of this matter, a settlement was reached in this case which required new procedures for how the state was to complete its voter purge lists in the future. This change in voter purging procedures was precleared under Section 5 of the Voting Rights Act in 2003.</p>
<p>3. A newspaper article provided to DOJ by a member of the U.S. Senate provided information that officials in several Florida counties disabled a feature in optical scan voting machines used during the November 2000 election to detect ballots spoiled by over-voting and allow voters to correct the error.</p>	<p>A Voting Section attorney analyzed rates of ballot spoilage in counties that had disabled the spoilage detection function in their optical scan machines and compared those rates to those of ballot spoilage in counties that had not disabled this function.</p>	<p>The investigation found that Florida counties with optical scan machines that activated the spoilage detection technology had lower rates of ballot spoilage than counties that did not have or did not use the technology. Some counties that had this detection feature disabled it on their voting machines. There were also isolated instances where the technology was either disabled or failed to function properly. The Voting Section determined that there was no evidence that the disabling of this feature was done with a discriminatory effect or purpose.</p>	<p>The Voting Section closed this matter because it found no evidence indicating a violation of federal law. Moreover, election reform legislation enacted in Florida in May of 2001 requires all counties to acquire voting machines with precinct-based spoilage detection technology by September 2002. The election reform law also requires counties to activate this technology during voting. The Attorney General, under Section 5 of the VRA, precleared election procedures provided for in this legislation.</p>
<p>4. The U.S. Commission on Civil Rights issued a report that posed questions regarding</p>	<p>The Voting Section reviewed the findings of the Commission's report regarding ballot</p>	<p>Several analyses suggested patterns of racial disparity in the ballot rejection practices</p>	<p>The Voting Section concluded that there was no basis for bringing a Section 2 lawsuit against</p>

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Description based on Voting Section Information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
spoiled ballots in Florida during the November 2000 election. The Commission questioned whether the racial disparity in spoiled ballots that occurred in Florida in 2000 was a violation of Section 2 of the Voting Rights Act. The Commission stated that the U.S. Department of Justice (DOJ) should specifically investigate whether the racial disparity in spoiled ballots violated Section 2.	rejection disparity and several newspaper studies of the spoilage issue. It then prepared a factual and legal analysis of issues raised in the Commission's report to determine if a Section 2 violation had occurred.	of a few Florida counties during one election. However, the Voting Section determined that the disparity alone did not meet the standards for a Section 2 lawsuit. The Voting Section noted that more investigation, analysis, and careful thought would have to be given to the causes of ballot rejection problems in Florida, the actual level of racial disparities, and the role played by state and county officials before a decision could be made concerning a Section 2 violation.	Florida on the basis of the evidence of racial disparities found in spoilage rates. Furthermore, it was determined that because Florida's 2001 election reform law required new election machines, significant steps had been taken by Florida towards remedying the election problems with respect to voting machines. The Voting Section also concluded that it would make sense to monitor the actions of Florida and its counties over the subsequent few years to see whether they would follow through in acquiring new voting machines with error detection technologies and educating voters to see what impact such actions would have on ballot rejection rates.
5. DOJ received allegations of inaccessible polling places and voting booths in Broward County, Florida.	The Voting Section opened a matter and looked into the county's compliance with the Voting Accessibility for the Elderly and Handicapped Act (VAEHA). The Voting Section sent a letter to the Broward County Supervisor of Elections requesting specific information regarding procedures in place to ensure the physical accessibility of polling places for federal elections pursuant to VAEHA. Attorneys from the Voting Section and the Civil Rights Division's Disability Rights Section met with the county supervisor of elections and the supervisor's attorney to discuss physical accessibility of polling places and	Based on information that the county provided, the Voting Section found that the county conducted polling place surveys in 1999 and conducted another survey devised to address the problem of disabled voters' access to the polls. The investigation revealed that the people conducting the surveys had no training in accessibility standards. The county provided the Voting Section attorney with a memo and a plan stating that Florida intended to purchase new touch-screen voting machines with an audio component for the blind or visually impaired, with one such voting machine available per precinct.	As a result of the problems experienced in the 2000 election, the Florida legislature enacted changes to its accessibility requirements for polling places and voting machines. In light of this and the Voting Section's determination that the new Florida law went further than the requirements in VAEHA, the investigation was closed.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	<p>purchase of new voting machines. The Voting Section and Disability Rights Section's attorneys requested documentation such as copies of county surveys covering accessibility procedures, a list of polling place changes spurred by accessibility concerns; a list of disability community contacts with whom officials from the office of the county supervisor of elections met, and procedures for reassignment or curbside voting. The county provided both attorneys with a demonstration of the new touch-screen voting machines with an audio component for the blind or visually impaired. The Voting Section attorney also contacted the county supervisor of election's attorney requesting information on VAEHA compliance.</p>		
<p>6. It was alleged that a crowd of persons attempted to intimidate election officials on the canvassing board of Miami-Dade County, Florida, during the presidential vote recount after the November 2000 election. It was alleged that this group's activities at the county courthouse during the recount intimidated the canvassing board into abandoning the recount.</p>	<p>The Voting Section attorney reviewed the allegations along with numerous accounts of events that transpired that day.</p>	<p>Based on the information gathered, the Voting Section determined that no cause of action existed under the civil enforcement provisions of the federal voting laws that the Voting Section is charged with enforcing.</p>	<p>The Voting Section concluded that no further investigation was warranted and closed the matter.</p>
<p>7. There were allegations made after the November 2000 election that ballot boxes in two predominantly minority precincts in Miami-Dade County, Florida, had not been picked up on</p>	<p>The Voting Section attorney examined voter turnout data for the two precincts in question. The Voting Section attorney also held discussions with the First Assistant County</p>	<p>The discussions that the Voting Section conducted with counsel for Miami-Dade County indicated that all of the county's ballot boxes had been accounted for on that day. According to the county</p>	<p>The Voting Section closed the matter because it lacked merit. According to the Voting Section, the evidence that the Voting Section collected made it seem doubtful that there were any missing ballot</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
Election Day, and that they were allegedly later found in the polling places.	Attorney in Miami-Dade County, who in turn contacted the county supervisor of elections.	supervisor of elections, the boxes that were later located in the two precincts contained election supplies, not ballots. Analysis of data from the two precincts indicated that both precincts reported voter turnout rates in the expected range given the county's overall turnout rate.	boxes.
8. The Voting Section opened this matter in August 2001 to initiate the monitoring of an election in New York City in November 2001 on the basis of observations made during the November 2000 election. Thirty federal observers and seven DOJ staff members monitored polling place procedures during municipal general elections in 2001 in Kings County (also known as Brooklyn) and in Bronx County. The Attorney General had previously certified both counties for federal observers pursuant to Section 6 of the Voting Rights Act. Also, 17 federal observers and 5 Voting Section attorneys monitored polling place procedures during the general election in 2002 in Brooklyn.	In pre-election activities, two Civil Rights Division attorneys met with officials from the New York City Board of Elections to discuss concerns about preparations for the election, including the need for poll worker training for the election, the need for voting machines to accommodate the number of registered voters, the need for Spanish-language voter registration materials for poll workers to distribute minority language assistance, and consolidation of polling places. A Voting Section attorney also attended four poll-worker training classes. After the election, the Voting Section attorneys met with several Board of Elections officials to debrief them.	Thirty federal observers monitored activities at 31 polling places in Bronx County and 12 polling places in Brooklyn County during the municipal general elections. Three staff members from DOJ's Civil Rights Division and one ALUSA for the Southern District of New York traveled with the observers to provide additional monitoring. Two Voting Section staff members visited six polling places in both counties. During the election, observers found that materials to be displayed to inform Spanish-speaking voters of assistance to interpret the ballot were not always clear or in public view at nearly half of the polling places in both counties. The Board of Election officials were informed of this and took action. These officials noted that it was up to each polling place inspector to display the materials they are given. Poll workers were observed asking voters for identification, which was in violation of New York State law. Board of Election officials were notified of this and went to the polling place to address the issue. DOJ monitors did not witness any Spanish-speaking poll workers at the 12	The Voting Section closed the matter because the monitoring of the election was completed. Voting Section staff could not comprehensively identify failure by individual poll workers to post or provide all materials to Spanish-speaking voters because of the large number of election districts—nearly 2,000—and the small number of observers. However, the Voting Section found that the Board of Elections was very responsive to all of the Voting Section's concerns and sent Board officials to places where problems arose, usually within 30 minutes.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
		<p>polling locations visited in Brooklyn; this was discussed with Board of Election officials; however, DOJ officials found that appropriate language assistance was available in both counties.</p> <p>Seventeen federal observers and five attorneys from the Civil Rights Division monitored polling place procedures during the general election in Kings County.</p> <p>The Voting Section attorney who attended four poll-worker training classes found that the classes appropriately addressed minority language issues and assistance.</p>	
<p>9. The Voting Section received an allegation from an African-American voter that a supervisor at a voting precinct in Georgetown County, South Carolina, discriminated against African-American voters during the 2000 presidential election. The voter alleged that the supervisor treated African-American voters in a rude and discriminating manner. In talking to the complainant and others, it was learned that there were also alleged voter registration problems during the 2000 election related to precinct changes and the local DMV.</p>	<p>The Voting Section attorney interviewed officials with the Georgetown County Board of Registration and Elections, representatives of the Republican and Democratic parties, voters, and an attorney representing the county. The Voting Section attorney also interviewed an official who managed the Georgetown County DMV office regarding the second-hand allegations from a Democratic party representative regarding possible registration problems at the local DMV.</p> <p>After interviewing the DMV official and examining the forms that the DMV provides to drivers applying for new licenses to simultaneously allow them to register to vote, the Voting Section</p>	<p>Voting Section staff wrote to the Voter Registration and Election Commission for Georgetown County outlining the allegations concerning the rude treatment by the poll worker and the Voting Section's findings and asked the commission how it planned to respond.</p> <p>The county's Voter Registration and Election Commission responded in writing that the election supervisor was informed by letter that she would be reassigned to another precinct and not permitted to serve in a supervisory capacity for the June 11, 2002, election. She decided not to work the June 2002 election.</p> <p>Other issues examined in this investigation were not raised with the county in this letter. With respect to the precinct change allegations, the Voting Section learned that conclusion as to proper</p>	<p>The Voting Section closed the matter on March 9, 2004. As of that date, the Voting Section had not received additional complaints concerning the treatment of African-American voters in Georgetown County or about voting registration issues previously investigated. According to the complainant, the election held on June 11, 2002, went smoothly.</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	<p>attorney noted that the form on the DMV driver's license application did not contain a box for people to check if they wanted to register to vote and that this might not adhere to the NVRA provision for a simultaneous process to apply for a driver's license and register to vote. In addition, in the interview with the employee in the local DMV office, the Voting Section attorney learned that they may have been only asking people applying for new drivers' licenses, not people renewing their licenses, if they wanted to register to vote. However, this employee further informed the Voting Section attorney that in October 2000 she received instructions from the head of the state DMV to ask every person who was applying for a driver's license whether he or she wished to register to vote, and she followed that instruction through the election.</p>	<p>voting precincts was likely the result of a change in the method of identifying addresses of voters. With respect to allegations about the DMV procedures, the Voting Section received no complaints from voters who indicated that the alleged problems at the DMV existed or resulted in denying them the right to vote. In addition, after the examination of the DMV forms and interview with the local DMV employee, it was concluded that there did not appear to be a violation of the NVRA.</p>	
<p>10. The Voting Section received a complaint alleging that the Seagraves Independent School District and the City of Seagraves, both in Texas, held elections without bilingual judges or bilingual training.</p>	<p>A Voting Section attorney visited Seagraves and the Seagraves Independent School Board. The Voting Section also contacted a newspaper to review published articles regarding the school board election.</p>	<p>Information in a newspaper article indicated that the allegations were untrue, and that all election material was produced in English and Spanish. The Voting Section attorney was told that confusion existed for all voters because of the present districting system.</p> <p>The Seagraves City Secretary wrote a letter to the Voting Section attorney stating that each year the city names a Hispanic judge who is also bilingual. The City</p>	<p>The Voting Section attorney suggested that the town should make an effort to educate voters of district boundaries by methods other than newspaper advertising. Subsequent to the election, the city of Seagraves sent a map of district boundaries and candidates running in each district to each city household. The Voting Section closed the matter.</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
		Secretary also provided the Voting Section attorney with minutes of prior city council meetings highlighting the nomination and approval of the election judges, and a sample ballot printed in both English and Spanish.	
11. During the November 2000 election, Miami-Dade County, Florida, allegedly engaged in practices that prevented the county's Creole-speaking Haitian-American voters with limited ability to speak English from securing assistance at the polls. In circumstances where the county permitted voter assistance from persons of the voters' choice, the scope of the assistance was limited (e.g., standing next to voters during poll worker demonstrations) and of little value to voters once they entered the voting booths.	After a full investigation, the Voting Section initiated litigation against Miami-Dade County because of its alleged violation of Section 208 of the Voting Rights Act. Prior to initiating litigation, the Voting Section conducted an investigation of the county's voter assistance practices during the 2000 election. DOJ filed a complaint with the U.S. District Court in the Southern District for Florida on June 7, 2002.	Evidence gathered during the investigation demonstrated that Creole-speaking Haitian-American voters at several precincts were denied assistance from persons of their choice in violation of Section 208 of the Voting Rights Act. Oftentimes, only poll workers, who did not speak Creole, were permitted to assist the voters, and they limited their assistance to voter demonstrations outside the voting booths. The Voting Section did not find evidence that noncompliance with Section 208 was the result of intentional discrimination. In this regard, it was noted that the Miami-Dade Board of County Commissioners passed ordinances in 1999 and 2000 mandating that Haitian-Creole ballot translations be available in voting booths located at precincts where "significant" numbers of Haitian-American people vote.	A consent order was entered into on June 17, 2002, that, in part, prohibited the county from denying Haitian-American voters assistance from persons of their choice and mandated that the county take certain steps to prevent violations of Section 208 and to redress the harm caused those voters, such as modifying poll worker training to include instruction on how to handle requests for language assistance. The consent order is in effect through December 31, 2005. The case is open to monitor implementation of the consent order.
12. As described in DOJ's complaint, DOJ alleged that various election practices and procedures in Orange County, Florida, unlawfully denied or abridged the voting rights of Spanish-speaking citizens. The challenged practices concerned the alleged failure of the county to: (1) provide an	After investigating these allegations, DOJ filed a complaint in the U.S. District Court for the Middle District of Florida on June 28, 2002, and entered into a consent decree with Orange County on October 9, 2002.	In the complaint, the Voting Section alleged that Orange County violated VRA Sections 203 and 208.	The case is open to monitor implementation of the consent decree. The consent decree permits DOJ to monitor elections in Orange County from October 9, 2002 until January 31, 2005. The consent decree also mandates policies and procedures that Orange County must adopt with

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
<p>adequate number of bilingual poll workers trained to assist Hispanic voters on Election Day; (2) ensure that poll officials allow Spanish-speaking voters to have persons of their choice assist them in casting their ballots; and (3) translate certain written election materials into Spanish.</p>			<p>regards to treatment of Spanish-speaking voters. The consent decree is valid until January 31, 2005. DOJ did not contend that Orange County's failure to adhere to VRA Sections 203 and 208 was the result of intentional discrimination.</p>
<p>13. As described in DOJ's complaint, DOJ alleged that Osceola County, Florida, engaged in various election practices and procedures that unlawfully denied Spanish-speaking citizens an opportunity equal to that of other citizens to vote. The challenged practices concerned: (1) the failure of poll officials to communicate effectively to Spanish-speaking voters necessary information concerning their eligibility to vote, voter registration status, identification requirements, and polling place changes and assignments; (2) the refusal of poll officials to allow certain Spanish-speaking voters assistance in voting by persons of their choice; and (3) hostile remarks by poll officials directed towards Hispanic voters with limited English proficiency.</p>	<p>After investigating the matter, DOJ filed a complaint in the U.S. District Court for the Middle District of Florida on June 28, 2002, and entered into a consent decree with Osceola County on July 22, 2002.</p>	<p>In the complaint, the Voting Section alleged that Osceola County violated VRA Sections 2 and 208.</p>	<p>The case is open to monitor implementation of the consent decree. The consent decree allows DOJ to monitor elections held in Osceola County from the date of the consent decree through January 31, 2005. It specifies procedures that the Osceola County Board of Elections must implement with regards to the treatment of Spanish-speaking voters and efforts the county must engage in to facilitate voting by Spanish-speaking voters. The consent decree is valid through January 31, 2005. DOJ did not contend that Osceola County intended to deny Spanish-speaking voters an equal opportunity to participate in the political process.</p>
<p>14. It was alleged that, in conducting elections in Reading City, Pennsylvania, Berks County denied Hispanic citizens with limited English proficiency an equal opportunity to participate in the political process and elect the representatives of their choice.</p>	<p>After extensive investigation, which included the monitoring of several elections held in the county, the Voting Section initiated litigation against Berks County because of its alleged violation of several provisions of the Voting Rights Act. DOJ filed a complaint with the U.S. District Court for the Eastern District</p>	<p>In the complaint, the Voting Section alleged that actions contributing to the denial by Berks County to provide Hispanic citizens with limited English proficiency an equal opportunity to participate in the political process and elect the representatives of their choice included the following: poll officials directed hostile remarks</p>	<p>On July 17, 2003, DOJ filed a motion for (1) permanent injunction and entry of final judgment that sought to permanently enjoin the county's conduct of elections using policies, practices, procedures, and methods that violate certain VRA requirements and (2) the court to issue an order authorizing OPM to appoint federal</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	of Pennsylvania on February 25, 2003.	at, and acted in a hostile manner toward, Hispanic voters to deter them from voting and make them feel unwelcome at the polls, poll officials engaged in election practices including the failure to communicate effectively with Spanish-speaking voters regarding necessary information about their eligibility to vote, voter registration status, identification requirements, and polling place changes and assignments, and turning away Hispanic voters at the 2001 and 2002 elections; and Berks County failed to recruit, train, and maintain an adequate pool of Hispanic and bilingual poll officials despite their knowledge of the needs of Hispanic voters with limited English proficiency.	examiners pursuant to VRA to serve in Berks County through June 30, 2007. The court granted the United States' motion on August 20, 2003. The case remains open for monitoring and several elections have been monitored since entry of the consent decree.
15. As described in DOJ's complaint, DOJ alleged that the state of Tennessee engaged in practices that unlawfully denied certain citizens full and complete opportunities to register to vote in elections for federal office as mandated by NVRA. The challenged practices included the failure of the state and agency officials to: (1) provide applications to register to vote simultaneously with applications for motor vehicle driver's licenses (including renewal applications); (2) request only the minimum amount of information necessary to prevent duplicate voter registration and enable state election officials to assess the eligibility of the applicant and to administer voter registration and other part	After investigating this matter, DOJ filed a complaint against the state of Tennessee in the U.S. District Court of Tennessee on September 27, 2002. On that same day, the state of Tennessee entered into a consent decree with DOJ.	In the complaint, the Voting Section alleged that Tennessee violated provisions in NVRA.	The case is open to monitor implementation of the consent decree. The consent decree requires the state and state agencies to develop uniform procedures with regards to the voter application process and the implementation of NVRA and report progress to DOJ annually while the consent decree is in effect. The consent decree expires on August 1, 2005.

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
of the election process; (3) distribute voter registration applications with every application for public assistance or services to persons with disabilities; and (4) transmit completed voter registration applications in a timely manner.			

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Election-Related Closed Preliminary Investigation and Matters and Closed Cases Initiated during Calendar Year 2002

No.	Preliminary Investigation/Matter/Case	Jurisdiction	Date investigation or matter initiated	DJ No.
1	Preliminary investigation	Hinds County, Mississippi	November 2002	No
2	Matter (election monitoring)	Apache and Navajo Counties, Arizona	September 2002	Yes
3	Matter (election monitoring)	Broward County, Florida	November 2002	Yes
4	Matter (election monitoring)	Duval County, Florida	November 2002	Yes
5	Matter	Georgia	October 2002	No*
6	Matter	Minnesota	October 2002	Yes
7	Matter	New Jersey	October 2002	Yes
8	Matter (election monitoring)	Bexar County, Texas	October 2002	Yes
9	Matter	Hidalgo County, Texas	December 2002	Yes
10	Case	Oklahoma	August 2002 (case filed in September 2002)	Yes
11	Case	Texas	March 2002 (case filed in March 2002)	Yes

Source: DOJ Civil Rights Division.

*According to the Voting Section, this matter did not receive a DJ number inadvertently.

Summary of Election-Related Closed Preliminary Investigation and Matters and Closed Cases Initiated during Calendar Year 2002

Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
<p>1. The wife of a soldier from Hinds County, Mississippi, assigned to Guantanamo, Cuba, alleged that her husband and approximately 50 other soldiers from that county did not receive their absentee ballots in the mail. Hinds County acknowledged receiving their requests in mid-September of 2002, and the circuit clerk confirmed they were mailed in the first week of October 2002.</p> <p>The Mississippi Secretary of State's office suggested that the soldiers fax in federal ballots but was not sure the ballots would be counted. That office also suggested to the soldier's wife that she contact the Voting Section. She reported to the Voting Section that soldiers from Madison and Rankin counties, also in Mississippi, did not receive their ballots until after the election. She also contacted the Assistant U.S. Attorney (AUSA) for Hinds County.</p>	<p>A Voting Section official discussed the allegation with an official in the Federal Voting Assistance Program (FVAP) under the Department of Defense (DOD), who said that someone in Hinds County told FVAP on November 20, 2002, that about 20 ballots had been sent to soldiers in Guantanamo. Voting Section staff also phoned the AUSA in Jackson, Mississippi, and noted in a memo that the AUSA had directed a local Federal Bureau of Investigation (FBI) agent to interview the chancery clerk, the registrar, and all others in the chain of custody of the ballots. The Voting Section also discussed asking FVAP to monitor transit of absentee ballots to soldiers from Hinds and Brandon Counties.</p>	<p>The AUSA told the soldier's wife that an investigation revealed the ballots had been lost in the mail. The FBI agent concluded that the county officials had mailed the ballots to the soldiers, but they had been lost or disappeared. The private company that processed mail for the county told the FBI agent that they were unable to check the zip codes of mail processed on a particular day.</p>	<p>The Voting Section closed the preliminary investigation after the AUSA concluded, and the Voting Section agreed, that there was no basis for bringing charges against anyone involved in the handling of the ballots because the ballots had been lost in the mail and no further action was needed.</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	during the next election in response to the soldier's wife January 2003 request that the Voting Section keep these counties on its "radar screen."		
<p>2. On November 5, 2002, federal election observers and Voting Section staff monitored polling place activities at 21 locations in Apache and Navajo Counties, Arizona. The Attorney General, pursuant to VRA Section 6, had certified these counties for federal observers. Since then, federal observers have documented problems related to the counties' inability to provide consistently effective Navajo language assistance to voters and other related circumstances affecting the Navajo voting population.</p> <p>The Voting Section was concerned about the following issues related to the primary held in September 10, 2002, and the general election held in November 5, 2002: (1) the counties' provision for Navajo language assistance, (2) voters being turned away at the polls, (3) crossover voting, and (4) polls not opening on time. During the 2000 election cycle and 2002 primary, federal observers documented several problems with the counties' provision of Navajo language assistance to voters. The Voting Section suggested that both counties distribute cassette tapes containing Navajo language ballot translations to poll workers. The counties committed to preparing and distributing the tapes to poll workers. Officials from both counties also informed the Voting Section that they would use updated flip charts for the November election. These charts, which were used for the September primary at the Voting Section's suggestion, displayed pictorial representations and written Navajo translations of each of the offices on the primary election ballot.</p> <p>There had been confusion in previous elections among many</p>	<p>In September 2002, the Voting Section met with the Apache County Election Director, the Apache County Deputy County Attorney, the Navajo County Election Director, the Navajo County recorder, and two Navajo County outreach workers to discuss several issues related to elections in the two counties. The Voting Section provided suggestions on how to prevent prior problems from recurring. The Voting Section observed the November 2002 election.</p> <p>The original poll worker training schedules that the two counties had provided to the Voting Section allotted approximately 2 hours for training. The Voting Section suggested having all-day training sessions, and the schedules were revised to allot 6-8 hours for training.</p> <p>The Voting Section suggested that both counties provide each polling place on the Navajo Reservation with voter registration lists from both counties, and train poll workers to check both lists and check with the appropriate county election department before turning voters away. Both counties agreed to adopt this suggestion. The Voting</p>	<p>The counties' implementation of their Navajo Language election information program was inadequate. While the counties provided language assistance to many voters, the assistance was frequently insufficient and failed to provide consistent and accurate language translation of the offices and propositions on the ballot's 14 propositions. The Voting Section concluded that the counties must improve and expand their training program for interpreters.</p> <p>The federal observers reported that the interpreters and poll workers believed more training in Navajo language translation was necessary. Some poll workers told the observers that the audiotapes containing Navajo translations were too long and confusing.</p> <p>One polling place was not well organized, resulting in very long lines. The Voting Section reported this to the Navajo County Elections Director, who sent an outreach worker to remedy the problem. The line was moving more quickly by mid-afternoon.</p> <p>The number of voters turned away from the polls was less than during the September</p>	<p>A November 22, 2002, memo discussing the monitoring of the November 5, 2002, election indicated that the Voting Section would meet in the future with election officials from both counties to discuss the November 5, 2002, election and develop methods to improve the counties' provision of language assistance and overall Election Day performance. The matter was closed after the election. According to the Voting Section, this is standard Voting Section procedure when irregularities are observed during election coverage.</p> <p>In the case of Navajo language assistance in these counties, the Voting Section stated that such outreach has been continuous for many years. Another memo discussing compliance and outreach efforts since the 2002 election indicates many improvements in Navajo language assistance efforts as a result of this outreach, including: (1) improved poll worker training which included the use of pictorial flip charts to assist voters in</p>

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Description based on Voting Section Information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
<p>elderly Navajo voters who live near the Navajo/Apache county line about polling place and voter registration. These voters often vote in different locations for tribal and state/federal elections. Tribal elections do not recognize county boundaries. Poll workers at polling places near the county line apparently turned away dozens of elderly voters because of voting location confusion during the 2000 primary and general elections and the 2002 primary. In 2000, poll workers gave affidavit ballots to other crossover voters in the mistaken belief that the ballots would be accepted later. However, since these voters were not registered in the counties where they voted, their votes were considered invalid.</p>	<p>Section also expressed concern about polling places that opened late for the September primary. The counties agreed to address this prior to the November 2002 election.</p>	<p>primary. However, while all the polling places had both counties' registration books, poll workers at most locations did not use them. Some did not know the books were available. At one Apache County location, observers reported that the Navajo county list was not present. The Voting Section informed the county elections director, who showed the Navajo County book to the polling place inspector. The poll workers had not removed the book from the elections supply box. The Voting Section felt that more training and practice would make the poll workers more familiar with this new system. There were no complaints about polls not opening on time.</p>	<p>understanding the ballot; (2) outreach and voter registration efforts on the reservation at various events; (3) the opening of new early voting locations on the Navajo Reservation; (4) the opening of a new satellite election office on the reservation to disseminate voter information and register voters; and (5) greater cooperation among the counties providing Navajo language assistance.</p>
<p>3. Voting Section personnel and 2 AUSAs monitored 84 precincts in Broward County, Florida, during the November 2002 election.</p>	<p>Actions taken by DOJ staff included interviewing the clerk of the precinct where a white male precinct worker who allegedly harassed African-American voters was employed about any complaints or problems with the assistant precinct clerk in question. DOJ staff spoke with four voters at this precinct regarding their experience voting and asked election officials to make chairs available for the disabled and elderly waiting in line to vote. They contacted county election officials about a voter who was told he could not vote because he had already sent an absentee ballot, the precinct clerk eventually verified that the voter</p>	<p>Voting Section staff provided assistance to help correct issues that arose during the monitoring. Examples of issues/problems observed were: (1) African-American voters felt somewhat harassed by a white male precinct worker; (2) a poll official did not want to allow a person to vote who said he had requested an absentee ballot but did not receive it; and (3) persons were turned away because of precinct changes due to redistricting, because they moved, and for other reasons.</p>	<p>The Voting Section closed the matter because the election being monitored was completed.</p>

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Description based on Voting Section Information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	<p>had not been sent an absentee ballot, and the voter was allowed to cast his vote on election day.</p> <p>With regard to the absentee ballot issue, DOJ staff advised the poll official to contact the Broward County Election Board. In addition, DOJ staff: (1) gave a voter the toll-free telephone number for the Voting Section because the voter wanted to complain about the lack of voting machines; (2) asked a poll clerk and poll workers if they had received complaints about not having enough voting machines; and (3) spoke with two voters who complained about a precinct being hard to find.</p>		
<p>4. At the request of Florida's Secretary of State, the Voting Section monitored the election in November 2002 in Duval County, Florida.</p>	<p>Voting Section attorneys monitored the election and facilitated the resolution of problems that arose by communicating proper election procedures to the Supervisor of Elections. Prior to monitoring the election, Voting Section attorneys met with the Supervisor of Elections, minority leaders in the community, leaders of the NAACP, and representatives from the local Democratic and Republican parties. They exchanged telephone information and invited each person or group to contact them with details of any problems that they might help address. They also provided guidance on issues that might arise to provide a</p>	<p>While monitoring the election, the Voting Section found various areas of clarification and improvement. One issue involved absentee ballots and Florida law allowing a person who requested an absentee ballot but did not submit it to vote at the polls. There was confusion when absentee ballots were submitted but rejected as being incomplete because they lacked voters' signatures and voters then being able to vote at the polls. Voters who submit absentee ballots are considered to have voted and cannot vote at the polls on election day if the absentee ballot is rejected.</p> <p>Also, poll workers had given incorrect ballots to</p>	<p>The Voting Section closed the matter because the election being monitored was completed.</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
	<p>common understanding of action that should be taken if a particular problem arose.</p> <p>The Voting Section attorneys worked with the Supervisor of Elections to improve election processes and were invited by the Supervisor of Elections to monitor elections in April and May 2003 to further improve upon their election processes.</p>	<p>some voters. Voters were turned away who lacked signed photo identification and were not allowed to vote by provisional ballot. There were also a few instances of insensitivity to minority voters and voters with disabilities.</p>	
<p>5. Georgia state law requires counties to have absentee ballots on hand 45 days before a general election. Georgia missed the September 20, 2002, deadline for the November 5, 2002, general election because of the compressed election schedule in 2002. The 45-day deadline was set to comply with federal mandates to make it easier for U.S. military personnel stationed outside the United States to vote. Georgia had compressed its 2002 primary and runoff election schedules such that the runoff was held only 49 days before the November 5 general election. This precluded the printing of the general election ballot in time for the mailing deadline required under state law. Georgia election officials had contacted FVAP during the first week of October regarding the state's compliance with the Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA).</p> <p>Catoosa County ballots omitted the names of the Republican candidate for the U.S. Senate and the Republican gubernatorial candidate from the ballot. An allegation was made that this, among other absentee ballot irregularities, violated UOCAVA because the correct ballots, even if sent at the time this concern was raised on October 18, 2002, would not be received in time.</p> <p>Georgia's Secretary of State asked DOJ to bring suit against the state to extend the deadline for receipt of</p>	<p>FVAP advised the Voting Section that a senior official in Georgia's Elections Division said that election officials in each of Georgia's counties would photocopy all necessary ballots and send them to every military and overseas citizen absentee voter from whom an application had been received in time. All 154 Georgia counties had done this by October 7.</p> <p>A Voting Section attorney asked the source of the allegation in Catoosa County to keep in touch and gave the person who made the allegation the phone number and Web site for FVAP for additional information about FVAP's role in this process. The Voting Section attorney contacted FVAP, and a FVAP official agreed to contact officials in Catoosa and Ben Hill counties to get copies of their ballots and get back to the Voting Section attorney. The Voting Section attorney also contacted a state election official.</p>	<p>FVAP favored going forward with the suit that Georgia's Secretary of State had suggested, but the Voting Section did not because (1) the number of voters affected was very small, less than 132 overseas; (2) UOCAVA was amended in 1986 to add the federal write-in absentee ballot as a back-up ballot when timely requested ballots do not reach voters in a timely matter (the Voting Section relies on the use of the back-up ballot as a remedy in UOCAVA lawsuits brought in primary elections, and had no reason to believe it was an inadequate remedy); and (3) the Voting Section believed the Secretary of State's true interest in the lawsuit stemmed from the large number of regular absentee ballots that were mailed late, and such ballots could not be part of any UOCAVA remedy.</p>	<p>The Voting Section closed the matter.</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
<p>military and other absentee ballots.</p> <p>6. The Voting Section conducted an investigation under UOCAVA and monitored a lawsuit in Minnesota over absentee ballots used in the November 2002 general election. At issue was the removal of Senator Paul Wellstone's name on the ballots and issuance of new ballots. Senator Wellstone died 11 days prior to the election, and former Vice President Mondale was designated the replacement candidate for the Democratic-Farmer-Labor party. This party argued for mass mailing of new absentee ballots, and the Republican party argued to do the mailing based on requests.</p>	<p>In an e-mail, the Voting Section attorney expressed concern about ballots being mailed, filled out, and returned between October 31 and November 5 (6 days).</p>	<p>The Voting Section monitored state actions to address this issue.</p>	<p>The Voting Section closed the matter after the state Supreme Court issued an order addressing the absentee ballot issue. The order specified the procedures for absentee ballots that included various options based on whether a voter had or had not already voted for Senator Wellstone.</p>
<p>7. A suit arose from the resignation of Senator Robert Torricelli from the general election and ballot for Democratic nomination to the U.S. Senate. The New Jersey Democratic party brought suit to secure a declaration that the New Jersey Democratic State Committee was permitted to select a qualified candidate to replace Sen. Torricelli. The New Jersey Supreme Court ruled in favor of the state Democratic party and required that a new ballot be prepared under the direction of the state Attorney General and a state court judge. Military and overseas ballots were to be given precedence and an explanatory letter was to be sent to all voters who received the new ballots. The Voting Section was concerned about the late transmittal of ballots to military and overseas voters.</p>	<p>The Voting Section prepared a discussion memo evaluating the impact that the New Jersey Supreme Court ruling would have on overseas absentee voters. The Voting Section monitored the New Jersey Democratic party lawsuit and state remedies to address this issue.</p>	<p>The Voting Section noted that late transmittal of ballots to voters by airmail generally raises concerns that overseas voters would not have sufficient time to receive, mark, and return their ballots to local election officials. The Voting Section staff determined that New Jersey state law contains several unique features that obviate the need for 20-40 days of roundtrip airmailing. In addition, DOD provides a backup ballot available at military installations and U.S. embassies/consulates. This is referred to as a federal write-in absentee ballot.</p> <p>The Voting Section noted that the question might arise regarding how the state would address ballots that had already been transmitted to overseas voters and may have already been returned. The Voting Section determined that this was a question for state officials to resolve, and that the Voting</p>	<p>The Voting Section concluded that New Jersey state law provides for several methods for UOCAVA voters to participate in federal elections over and above the use of regular absentee ballots sent by airmail. The Voting Section closed the matter due to lack of merit.</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
<p>8. An attorney for Bexar County, Texas, requested, in a letter to the Voting Section dated October 18, 2002, expedited review of changes in the county's early voting process in the joint general and special election on November 5, 2002. Changes included: (1) the one-time use of two-page ballots for partisan contested races, (2) procedures for counting ballots with straight-party votes, and (3) one-time use of a single two-sided ballot for partisan contested races supplemented by a separate sheet with duplicate voting instructions for the November 5, 2002, general election. Prior to that request, the League of United Latin American Citizens filed suit in U.S. District Court for the Western District of Texas alleging that Bexar County implemented changes to the conduct of the November general election without obtaining preclearance from DOJ.</p>	<p>The Chief of the Voting Section wrote a letter back to the attorney for Bexar County. The Voting Section had telephone discussions with various people regarding the ballot format issues.</p>	<p>Section planned to raise this issue when speaking with state officials in October 2002.</p> <p>In a letter dated November 1, 2002, the Voting Section stated that the Attorney General did not interpose any objection to the specified changes, but noted that Section 5 of the Voting Rights Act provides that failure of the Attorney General to object does not bar subsequent litigation to enjoin enforcement of the changes.</p> <p>After the League of United Latin American Citizens filed the lawsuit, Bexar County advised the court that they initiated Section 5 preclearance submission procedures on October 18, 2002, and October 21, 2002. The county had not obtained preclearance from DOJ at the time the lawsuit was filed. The court agreed with both parties that the changes were required and allowed the changes to proceed pending the preclearance. On October 31, 2002, the court decided to retain jurisdiction over the case through the conclusion of the 2002 election process and ordered the parties to advise the court as to their positions on the case on or before December 1, 2002.</p>	<p>The Voting Section closed the matter because it granted preclearance for the changes.</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
<p>9. A U.S. Representative sent a letter to the Attorney General regarding possible voter suppression in Alabama, Arkansas, Florida, Indiana, Louisiana, Maryland, Michigan, New Jersey, New Mexico, Pennsylvania, and Texas. In Arkansas, Louisiana, and Maryland, it was alleged that African-Americans were victims of voter suppression. In New Jersey and Texas, allegations of voter suppression involved Hispanics. The victims of voter suppression in the other states were not specified.</p> <p>According to the Voting Section, many of the matters referred to in the letter were matters under the jurisdiction of the Criminal Division and were being investigated by that Division when the letter was received. The Voting Section investigated two of the allegations referred to in the letter, including one in Hidalgo County, Texas, where it was alleged that the Republican party intimidated Hispanic voters countywide to dampen their turnout at the general election. The second allegation that the Voting Section investigated that was referred to in the letter was in New Jersey; the Voting Section opened a matter in 2003 to investigate this allegation (see information provided in this attachment for 2003).</p> <p>The most direct form of alleged intimidation in Hidalgo County was reported to have occurred when two poll watchers for a Republican candidate challenged Hispanic voters at early voting on the basis that a study indicated that 13,000 dead or ineligible voters were in the county's voter registration rolls. The Republican party held a press conference two weeks before the election where party representatives alleged that voter fraud could be a significant problem with the number of people listed incorrectly on the voter rolls.</p>	<p>A Voting Section memo referred to an allegation received from the U.S. Representative regarding possible intimidation at the November 2002 election held in Hidalgo County, Texas. The Voting Section attorney requested several pieces of documentation from the county elections administrator, including newspaper articles, letters between the elections administrator and the Republican elections administrator, and information regarding a study regarding the possibility of 13,000 dead or ineligible voters on the county voter rolls. The Voting Section attorney spoke with Hispanic voters and other minority contacts. The Voting Section attorney also analyzed voter turnout data for Hidalgo County and compared it to the state of Texas for 2002 and previous elections.</p>	<p>The Voting Section determined that Hidalgo County's election administrator handled the situation well by expelling the poll watchers when the voting supervisors alerted the election administrator that two poll watchers for the Republican candidate were making random challenges to Hispanic voters.</p> <p>The Voting Section further determined that efforts on the part of the Republican party did not dampen minority turnout and did not discover instances of voter intimidation at the polls on election day. The Voting Section noted that minority contacts in the county: (1) did not think that the allegations of dead voters on the rolls dampened turnout; (2) did not believe that the challenges made by the two poll watchers caused fewer Hispanic voters to vote; and (3) did not report problems of voter intimidation at the polls. The Voting Section did not find apparent differences between the voter turnout data in the 2002 election compared to other elections.</p>	<p>The Voting Section closed the matter on June 25, 2003, because it lacked merit. The Voting Section attorney observed that there was a tense atmosphere in Hidalgo County between some of the white Republicans and the Hispanic citizenry. The Voting Section recommended that this is an area that should be monitored in future elections.</p>
<p>10. As described in DOJ's complaint, DOJ alleged that the state of Oklahoma was not in compliance with UOCAVA. Election</p>	<p>After an expedited investigation, DOJ filed a complaint in the U.S. District Court for the</p>	<p>In the complaint, the Voting Section alleged that the state of Oklahoma violated</p>	<p>The consent decree required the state to take corrective actions so that all</p>

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Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
<p>officials in Oklahoma could not mail absentee ballots to military and civilian overseas voters on a date sufficiently in advance of the September 17, 2002, primary runoff election to allow voters to receive the ballot, cast a vote, and return the ballot to election officials by the deadline established by state law.</p>	<p>Western District of Oklahoma on September 12, 2002, and entered into a consent decree with the state of Oklahoma on September 17, 2002.</p>	<p>UOCAVA.</p>	<p>uniformed military personnel and citizens living overseas who filed a timely request to receive an absentee ballot are given the opportunity to vote. The state did so through, among other things, the passage of UOCAVA compliance legislation in May 2003.</p>
<p>11. As described in DOJ's complaint, DOJ alleged that as a result of the compressed period of time between the Texas primary and runoff elections, election officials in the state of Texas failed to mail absentee ballots to military and civilian overseas voters on a date sufficiently in advance of the April 9, 2002, federal primary runoff election to allow such voters to receive the ballot, cast a vote, and return the ballot to election officials by the deadline established by state law.</p>	<p>After an expedited investigation, DOJ filed a complaint and motion for a temporary restraining order and preliminary injunction in the U.S. District Court for the Western District of Texas on March 22, 2002.</p>	<p>In the complaint, the Voting Section alleged that the state of Texas violated UOCAVA.</p>	<p>The court entered a temporary restraining order and preliminary injunction on March 25, 2002, permitting qualified Texas voters to use federal write-in absentee ballots for the April 9, 2002, election. According to the terms of the court order, the state was required to take actions to remedy absentee ballot issues in the future. This included permitting voters to submit write-in ballots if their ballots are not sent to them in time and counting the write-in ballots as valid as long as the voters living outside the United States are qualified to vote in Texas. A stipulation of dismissal was entered in February 2004 following passage by the state legislature of legislation remedying the United States' complaint.</p>

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Election-Related Closed Matter Initiated during Calendar Year 2003

No.	Matter	Jurisdiction	Date matter initiated	DJ No.
1	Matter	New Jersey	January 2003	Yes

Source: DOJ Civil Rights Division.

Summary of Election-Related Closed Matter Initiated during Calendar Year 2003

Description based on Voting Section information	Voting Section's actions taken to address allegation	Voting Section's assessment of allegations	Disposition by Voting Section
<p>1. This matter was the second matter opened by the Voting Section in response to the November 2002 letter from a U.S. Representative referred to in the previously described 2002 matter for Hidalgo County, Texas. There were allegations of voter intimidation in New Jersey. According to a newspaper article, e-mails were sent to Latino lawyers urging them to engage in an aggressive campaign to ensure ballot fairness. Attorneys for both the Democratic and Republican National Committees presented their case before the U.S. district court. The judge ruled a few days before the November 2002 election that there was "nothing sinister" in the Republican ballot fairness plan and characterized the plan as legitimate campaign activity.</p>	<p>The Voting Section attorney contacted a Latino political activist in the New York metropolitan area, the Treasurer of the New Jersey Hispanic Bar Foundation, and a community activist and attorney based in Newark, New Jersey.</p>	<p>The people that the Voting Section attorney contacted were not aware of the e-mail or any other threats or intimidation tactics against Latino voters. The Voting Section noted that its investigation yielded results similar to the judge's findings—that the ballot fairness plan mentioned in the e-mail did not raise concerns about Latino voter intimidation during the November 2002 general election.</p>	<p>The Voting Section closed the matter because it lacked merit.</p>

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Attachment V

Comments from the Department of Justice



U.S. Department of Justice
Civil Rights Division

Office of the Deputy Assistant Attorney General

Washington, D.C. 20530

August 27, 2004

William O. Jenkins, Jr.
Director
Homeland Security and Justice Issues
United States Government Accountability Office
Washington, D.C. 20548

Re: *Department of Justice's Activities to Address Past Election-Related Voting Irregularities - Draft Report GAO-04-1041R*

Dear Mr. Jenkins:

Thank you for providing the Department of Justice with a copy of a draft of the Government Accountability Office (GAO) report entitled "Department of Justice: Activities to Address Past Election-Related Voting Irregularities." This letter constitutes the Justice Department's formal comments, and I request that it be included in the final report.

The Department appreciates the GAO's, and the requesting members', interest in this most important issue. Indeed, of all the areas of responsibility charged to the Civil Rights Division, none ranks more highly than protecting the franchise.

Since 2001, the Division has worked steadily to protect federal voting rights. We have directed substantial resources to implementing the electoral reforms of the Help America Vote Act of 2002 ("HAVA"), including working with all states and territories to facilitate their preparedness to comply with the HAVA provisions that took effect on January 1, 2004. We also have taken unprecedented steps to protect the rights of language minority voters. And we have moved strongly to ensure that all American citizens overseas, including our men and women in uniform, have an opportunity to participate in the democratic process. Finally, as your draft report demonstrates, the Division has significantly increased the numbers of monitors and observers deployed to ensure compliance with federal voting rights. In short, this Division has been fully attentive to the challenge of protecting federal voting rights, and we are gratified to see our successful record reflected in your draft report.

With regard to the specific recommendations your draft report has made, we are pleased to accept both. In the Division's view, each will be a salutary addition to the many steps already taken to improve protections of federal voting rights. For that reason, the Assistant Attorney

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General for Civil Rights has already directed implementation of your recommendations.

With regard to the balance of the draft report, we appreciate the opportunity to have worked with GAO personnel on this audit. As with any report on an issue of such a critical nature, it is of the utmost importance that the report be both complete and accurate. Accordingly, we also appreciate the opportunity to provide comments. We must, however, register our disappointment that, while GAO took more than fifteen months to investigate and compile its draft report, you offered the Civil Rights Division only one week to review and comment on the voluminous document. Moreover, when the Division explained the difficulties and potential for error raised by such an abbreviated review, GAO offered just one additional week. This restriction has severely hampered our ability to provide the type of thorough review appropriate to such an important document, a particularly unfortunate consequence given that the draft report fails to capture accurately substantial portions of the Voting Section's work. Nevertheless, we have endeavored to provide as detailed and illuminating a set of comments as possible in the permitted time. Our specific comments follow:

1. Tracking Election Monitoring Activities

First, the GAO recommends establishing within the Department's ICM system a mechanism for tracking and reporting election-monitoring activities. As noted, the Assistant Attorney General has already taken steps to implement this recommendation, and the Division will implement an electronic means of tracking such data.

At the same time, however, it is important that the draft report not leave the reader with the suggestion that the Division presently lacks any system for tracking its election monitoring activities. See Letter at v; Draft Report at 41. This would be incorrect. The Voting Section does currently have procedures that effectively track election monitoring activities. Since the mid-1980s, the Voting Section has maintained logs detailing this information. As your records should show, the Division provided your investigators with a full explanation of these procedures in its May 25 response to your inquiries. The Division also provided you with the actual charts used for this tracking for the years 2000-2004. These charts provide detailed information about the state, the name of the jurisdiction monitored, the date of election, and the number of OFM observers and DOJ personnel who monitored the election. The Voting Section has found this system to be adequate and effective. Moreover, the existing logs are accurate and easily accessible.

2. Incomplete and Outdated Data Regarding Section 203 Work

It is also important that the final report reflect the most up-to-date information possible about the Voting Section's enforcement activities. Specifically, with regard to the Division's enforcement of Section 203 of the Voting Rights Act, while the draft report purports to have reviewed data through March 15, 2004, it discusses enforcement of Section 203 only through 2002. See Draft Report at 27. We have previously noted to you that the Division undertook a significant number of additional cases related to Section 203 and language minority issues in

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2002, 2003, and 2004. Yet, the draft report fails to mention these. The Division thus respectfully requests that the draft report be corrected to reflect our full record. Specifically, Civil Rights Division attorneys contacted all, and personally visited many of, the 296 counties covered under Section 203 to help guide local election officials in complying with the law's dictates. In 2003, the Division also initiated an additional two lawsuits (one under Section 2 and Section 208 of the Voting Rights Act and one under Section 203 of the Voting Rights Act) not reflected in the draft report, and we filed an additional 5 cases in 2004 (each under Section 203 of the Voting Rights Act). The cases are referenced in Attachment 1 to this letter. To put this in perspective, the Division has filed as many Section 203 cases since May 2004 as were filed in the previous eight years. Moreover, the cases filed since May 2004 have provided comprehensive minority language election programs to more voters than all previous Section 203 cases combined.

In addition to the foregoing filings, a number of additional jurisdictions voluntarily modified their practices after being contacted by the Division. In this respect, it is important to note a substantial restraint on the Division's authority. The remedies provided under the voting rights laws only provide for prospective relief for violations. In other words, even if the Department's investigation reveals that a particular jurisdiction may have violated the law in the past, if the jurisdiction changes its election procedures to comply with the law so it is no longer in violation, our investigation becomes moot and we cannot litigate to ask for remedies that are no longer needed. Unlike private plaintiffs filing litigation in test cases, the Department cannot obtain relief for past violations that are no longer occurring. This is especially important to keep in mind when reviewing matters in states that passed voting reform legislation changing their election administration.

3. Updated Information on UOCAVA Work

On page 28 of the draft report, the third bullet point about the lawsuit filed in Georgia under the Uniformed and Overseas Citizens Absentee Voting Act of 1986 should be corrected to reflect that a court order was granted:

"Filed. Obtained a court order in an UOCAVA lawsuit in July against the state of Georgia requesting a for similar emergency relief order for its primary election."

4. Updated Information on HAVA Work

On page 29 of the draft report, the summary of the Division's activities under the Help America Vote Act of 2002 fails to mention the first HAVA enforcement action filed by the Voting Section. We respectfully request that the following bullet point be added:

Filed its first enforcement action in California against a county for failing to fully implement HAVA

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The case is *United States v. Son Berto Cowry, California* (N.D. Cal.). A complaint was filed on May 26, 2004 alleging, in addition to a violation of Section 203, a violation of the voter information provisions of HAVA. A consent decree requiring actions by the county to remedy the violations is pending review and approval by the court.

5. Documentation of Complaints of Alleged Election 2000 Voting Irregularities

As the GAO draft report itself notes, "[c]onfidence in our election processes is of utmost importance." Draft Report at vi. Moreover, confidence is assisted by "accurately recording and documenting [election related] activities in as clear a manner as possible." *Id.* This is no less true for your report as for our record-keeping. Accordingly, it is imperative that the final report accurately captures the full facts surrounding the Division's efforts during the 2000 election. At present, the draft report fails to do so.

Your draft letter to Congress and draft report repeatedly references the Division's documenting of public telephone calls during the 2000 Presidential election. These references may be construed to imply that an alternate means of documenting such public contacts would have enabled the Division to identify the existence of violations of federal law warranting further investigation. It is important that the GAO be clear that it is reaching no such conclusion, because such a conclusion simply would not be accurate.

The chief difficulty in the draft report's summary is its nearly exclusive focus on telephone logs maintained by contractors hired by the Department to record calls coming into the Department's main switchboard in the days after the 2000 election. The draft report contends that these logs were insufficiently detailed. However, the draft report fails to note that these logs made up only a small portion of all of the records of phone calls received by the Division. Therefore, any shortcomings in these logs are extremely unlikely to have changed the course of subsequent investigations.

As we previously advised GAO, (DOJ Response to April 7 Information Request), these contractors were hired to take phone calls from the public only during the weekend following the election, when the Division's offices would normally otherwise have been closed. The Division decided to afford the public this extra service after the Department's main switchboard received thousands of calls from around the country inquiring into the situation in Florida. In addition, the Voting Section's telephone lines received an elevated number of calls.

In focusing almost exclusively on the contractor logs, the draft report overlooks the call logs maintained by the Voting Section itself in 2000. These provided extensive documentation about callers and a description of the callers' complaints, and have proved reliable and accurate. Moreover, the vast majority of calls received were tracked through these logs. Therefore, the Division respectfully notes that during the 2000 election it did have an effective means of tracking election-related phone calls.

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In our April 2004 response, we provided you substantial detail regarding this additional means for tracking public election-related inquiries. Specifically, the Division's 800 number system was modified to permit as many callers as possible to express their views. It was temporarily reconfigured to provide four caller options to: (1) allow persons to express general opinions about the election (which represented the overwhelming majority of the calls); (2) provide specific information about voting-related incidents outside Florida; (3) provide specific information about voting-related incidents inside Florida; or (4) provide specific information about non-2000 election-related matters.

This modified system took effect late in the day on Thursday, November 9, 2000, and was discontinued following resolution of the Presidential election. The calls coming into the temporary 800 system were reviewed regularly by Voting Section personnel beginning on November 13, 2000. Return calls were made when there was some indication that the caller had substantive information about a specific voting rights violation.¹ Separate log forms tracked each of the 800 number options. Calls expressing general views without conveying specific information about voting rights violations were recorded on forms similar to the contractor logs, with category columns listed for each state (although these forms were changed periodically to reflect the changing Florida election situation). Calls made under the other options were recorded on log forms providing for much more specific information, including name, phone number, and a detailed description of the complaint. We recently provided GAO with these logs. In addition, we invited GOA staff to meet with Voting Section staff involved in dealing with the public during the 2000 election. Regrettably, GAO declined this invitation.

6. Nature of the Calls Received After the 2000 Election

In addition to focusing on only a subsection of the calls received, the draft report also fails to properly note the substance of the vast majority of phone calls received by the Department following the November 2000 election.

First, the draft report fails to note the fact that of the thousands of calls received by the Department's switchboard during this period, upwards of 95 percent did not provide specific complaints of possible violations of federal voting rights laws, but rather simply reflected citizen frustration or anger over the ongoing election dispute. This assessment was made by the Voting Section's experienced, career professional staff, including both trial attorneys and management. Moreover, determinations were made by staff only after receiving initial reports from the Department's switchboard operators, engaging in hundreds of conversations with citizens calling into the Voting Section's phone lines, and reviewing the contractor logs that were faxed to the Voting Section on an hourly basis.

¹ In our suggested changes to the section entitled "November 2000 Election Telephone Logs" of your draft Statement of Facts, which we sent to you on August 4, 2004, we explained the specifics of this additional call tracking system. Unfortunately, these changes were not incorporated in GAO's draft report.

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Second, the draft report fails to note that the vast majority of the calls received by the contractor lines came from New York and California; the number of calls from Florida was relatively small. The vast majority of these expressed frustration over the situation in Florida, and were based on second-hand information and media stories.

The same was also true for the majority of calls originating from Florida. Voting Section personnel followed up with callers from Florida to determine whether they had substantive information about the Florida election. Again, however, the vast majority of these callers were calling to express frustration at the ongoing election dispute and had no specific information about federal law violations. In addition to following up with these callers, Voting Section personnel also pursued other avenues of complaints (e.g., calls made by voters directly to the Voting Section, complaint logs generated by the NAACP Voter Fund, hearings conducted by the U.S. Commission on Civil Rights and the NAACP, incidents receiving a large amount of publicity, etc.) to determine if federal laws had been violated.

As noted at the outset, it is imperative that the draft report accurately reflect these facts. At the same time, the Division fully concurs in the GAO's recommendation that an expanded recording system be implemented. For the 2004 election, the Division will continue to refine its tools for recording election-related calls to allow the public access to the Voting Section's complaint process.

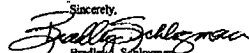
7. Criminal Investigations

As you are aware, the GAO audit also examined the work done by the Criminal Division's Public Integrity Section, which is responsible, along with United States Attorneys' Offices, for investigating and prosecuting federal election crimes. The Chief of the Public Integrity Section, Noel Hillman, has asked us to include his comments to the portion of the draft report that pertains to the work of the Criminal Division. The first paragraph on page 22 of the draft report provides incorrect information about the training received by Assistant U.S. Attorneys. There are annual public corruption training conferences held by the Justice Department for Assistant United States Attorneys (AUSAs), and these include presentations on federal election crimes. These conferences are available to all AUSAs, including the AUSAs who are the designated district election officers. Some, but not all, of the 93 AUSAs who are their district's designated election officers may attend these conferences. In addition to these public corruption conferences, the district election officers are now attending the annual Ballot Access and Voting Integrity Conference, the first of which was held in 2002, to receive training on both civil rights issues important to ballot access as well as voting integrity issues important to election crime matters. Please note that the name of this annual conference is the "Ballot Access and Voting Integrity Conference," not the "Voting Integrity Conference."

In conclusion, we appreciate the opportunity to work with your staff concerning the important work of the Voting Section in enforcing federal voting rights. We are hopeful that the

Attachment V

mistatements and inaccurate characterizations in this draft report will be corrected prior to its release.

Sincerely,

Bradley J. Schlozman
Deputy Assistant Attorney General

(440350)





Jon M. Greenbaum

Jon M. Greenbaum is the Director of the Voting Rights Project for the Lawyers' Committee for Civil Rights Under Law where he is responsible for directing the Committee's voting rights litigation which challenges all forms of voting rights discrimination practiced against minority and ethnic groups in the United States. This work includes challenges to electoral practices that violate the Voting Rights Act, including those which have the result of denying minorities an equal opportunity to participate in the political process and elect candidates of their choice and voting changes in jurisdictions covered by Section 5 of the Voting Rights Act which worsen the position of minority voters, and challenges to electoral practices that violate the Fourteenth Amendment, including those which improperly infringe on the fundamental right to vote, practices that intentionally discriminate against minority voters, and claims brought pursuant to *Bush v. Gore*. The Voting Rights Project acts as co-counsel with participating law firms to bring such actions.

Mr. Greenbaum is also responsible for directing the Voting Rights Project's non-litigative activities, which include participating in efforts to maintain and expand the voting rights of minority citizens through legislation, participating in outreach efforts to minority citizens involving voting rights, producing position papers and articles on current issues of concern, coordinating with other organizations on issues affecting voting, and speaking at conferences and to the media regarding voting rights issues.

Immediately prior to joining the Lawyers' Committee, Mr. Greenbaum was a trial attorney in the Voting Section of the United States Department of Justice for seven years where he enforced voting rights laws for the United States, including Section 2 of the Voting Rights Act, preclearance provisions under Section 5 of the Voting Rights Act, and the bilingual requirements under Section 203 of the Voting Rights Act. In *United States v. Charleston County, South Carolina*, a case which challenged the at-large method of electing the Charleston County Council on grounds that it diluted the voting strength of African-American citizens, Mr. Greenbaum drafted and argued a successful plaintiff's motion for partial summary judgment on all three preconditions of *Thornburg v. Gingles*, which is extremely rare, and was a member of the legal team that successfully tried the remainder of the action before the district court.

Prior to working at the Department of Justice, Mr. Greenbaum was a litigation associate in the Los Angeles office of the international law firm, Dewey Ballantine. Mr. Greenbaum worked on numerous litigation matters in the areas of environmental law, employment law, and business litigation.

Mr. Greenbaum graduated in 1989 from the University of California at Berkeley with Bachelor of Arts degrees in Legal Studies (with honors) and History. He received his law degree from the University of California at Los Angeles in 1993.

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 - *Decker, et al v. Kunko, et al*; District Court of Chaves County, New Mexico (2004); voter identification and fraudulent registration issues; *Kunko, et al v. Decker, et al*; Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues;
 - *In the Matter of the Security of Ballots Cast in Bernalillo County in the 2000 General Election*; Second Judicial District Court of Bernalillo County, New Mexico (2000); voting and counting irregularities and fraud.

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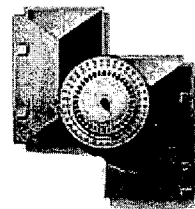
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**VOTING RIGHTS ACT: SECTIONS 6 AND 8—THE
FEDERAL EXAMINER AND OBSERVER PROGRAM**

HEARING
BEFORE THE
SUBCOMMITTEE ON THE CONSTITUTION
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED NINTH CONGRESS
FIRST SESSION

NOVEMBER 15, 2005

Serial No. 109-77

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://judiciary.house.gov>

U.S. GOVERNMENT PRINTING OFFICE

24-606 PDF

WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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**VOTING RIGHTS ACT: SECTIONS 6 AND 8—
THE FEDERAL EXAMINER AND OBSERVER
PROGRAM**

TUESDAY, NOVEMBER 15, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE CONSTITUTION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 12:38 p.m., in Room 2141, Rayburn House Office Building, the Honorable Steve Chabot (Chair of the Subcommittee) presiding.

Mr. CHABOT. Every Chairman should have a gavel when it was missing. So now we have it, we can get started.

This is the Subcommittee on the Constitution. I'm Steve Chabot, the Chairman.

I want to thank you all for attending this afternoon. This is the Subcommittee, as I said, on the Constitution, and the ninth in a series of hearings this Committee has held in the last several weeks examining the impact and effectiveness of the Voting Rights Act.

I'd like to thank all my colleagues again for their assistance in making each of these hearings informative and thought provoking, as we continue our efforts to look closely at those provisions of the Voting Rights Act which are set to expire in 2007.

Today, we will focus our attention on sections 6, 7, and 8 of the Voting Rights Act, each of which is set, as I said, to expire in 2 years, in 2007, unless Congress acts otherwise and reauthorizes.

Section 6 authorizes the Attorney General to send Federal examiners to cover jurisdictions to register new voters.

Section 7 outlines the procedures to be followed by these examiners when registering new voters.

And section 8 authorizes the Attorney General to send Federal observers into these covered jurisdictions to ensure that the rights afforded by Federal law are protected.

We have another distinguished panel of witnesses with us here this afternoon, and we want to thank them all for being here, and we look very much forward to their testimony.

The assistance provided by Federal examiners and observers in the election process has played an instrumental role in increasing minority voter participation.

After almost a century of racial discrimination in voting and several unsuccessful attempts to curtail these pervasive practices, Congress enacted the Voting Rights Act back in 1965.

Among the many different tools provided by Congress is the intervention of Federal examiners and observers. This Federal oversight was deemed necessary as result of the failure on the part of covered jurisdictions to openly accept minority voters in the political process.

In the initial years after enactment of the Voting Rights Act, Federal examiners and observers were used in record numbers. The impact these provisions have had on minority voters is reflected in the increasing number of minority voters registering to vote.

Over 112,000 minority voters have been registered by Federal examiners over the life of the Voting Rights Act.

And while the number of examiners sent to jurisdictions has decreased in recent years, the importance of Federal oversight in protecting minority voters has not diminished.

In the last 25 years, Federal observers have been sent to over 98 covered counties to ensure that minority voters are protected.

In fact, the Department of Justice just last week sent Federal observers to 16 jurisdictions in 7 States to monitor elections, to ensure compliance with the Voting Rights Act and other Federal voting and election statutes.

Today, we will examine the impact that Federal examiners and observers have had on increasing minority participation in the political process and the continued need for these provisions in the future.

Again, we look forward to hearing from all our witnesses here this afternoon.

And at this time, I will recognize the distinguished Ranking Member of the full Committee, Mr. Conyers of Michigan, if he would like to make an opening statement.

Mr. CONYERS. Thank you, Mr. Chairman.

Before I begin, could I ask the Chair a question about the absence or withdrawal of the Department of Justice witness that was scheduled to have been here?

Mr. CHABOT. Yes. If the gentleman will yield?

Mr. CONYERS. And I'll yield.

Mr. CHABOT. We've been informed, and, in fact, I would note that the Department of Justice was scheduled to be our fourth witness today, but due to a scheduling conflict, they couldn't be here. They have submitted written testimony, and it's been made available to us, and they've offered to make themselves available at a later date, and to respond to any written questions that this Committee might have.

Mr. CONYERS. Thank you very much for making that clear because their presence is very critical in how many of us will proceed under these—this very important consideration.

Mr. CHABOT. Would the gentleman yield one more time, please?

Mr. CONYERS. Of course.

Mr. CHABOT. I thank the gentleman for yielding. I might note that Mr. Weinberg is a former attorney with the Justice Department, and may be able to answer some of the questions that would be answered if the Justice Department were here.

But again, they—we will be able to provide those questions to them in writing and maybe an appearance down the road as well.

Thank you.

Mr. CONYERS. Oh, you're more than welcome.

This is a very important part of extending the Voting Rights Act of 1965, and I'm very interested from hearing—in hearing from the witnesses about the relationships between the examiners and the observers.

We're—it seems to me, frankly, Mr. Chairman and Members of the Committee, that we may need to resort to a little rewriting of this section to clear up some parts of it.

The one thing I would love to hear commented on and maybe we'll do it in the questions is that we have a sent Members in for—we have sent either observers—people have been certified to come in to monitor elections, but it's usually about language barriers. It's not about racial exclusion or harassment or coercion or discouraging the vote.

For example, in the city—my city of Hamtramck, Michigan, in which there were some problems with Arab-Americans being harassed at the polls, and they—we sent in Federal observers, but in many parts of the country, where we really need somebody looking at some very fundamental questions, which leave it unnecessary for me to even discuss why we have to justify this extending and improving on these provisions 3 and 6 and 8. Every election cycle in our offices, we field numerous complaints involving election day mischief and worse from around the country—plenty of it.

As a matter of fact, we should write a report about it or Mr. Weinberg or Ms. Pew should write a book about it. Baltimore, 2002—intentions to confuse and suppress the voter turnout, where flyers misstated the date of the election and implied that overdue parking tickets, moving violations, behind in your rent were qualifications that could preclude you being allowed to vote.

Kentucky gubernatorial election, 2003—59 precincts with significant African-American populations targeted for vote challenges by local campaign officials.

May I have an additional minute, sir?

Mr. CHABOT. Without objection, so ordered.

Mr. CONYERS. Thank you.

In North Carolina, in 1990, the Department sued over postcards mailed to African-American voters designed to discourage them from coming to polls by providing misinformation about the voter requirements.

They finally—there was a consent decree.

Now, the failure—one of the problems that were corrected from 1957 to 1965 is that we were giving retrospective relief for interference with the right to vote.

What we needed was prospective relief, and that's what's up for renewal now, and I hope we can gather a hardcore congressional group of Members that realize that that's the heart of this—one of the hearts of the hearing that we're holding here today.

We've had an election day last week. The Department sent Federal observers and personnel into 16 jurisdictions in 7 States.

In 2004, the Department coordinated and sent 1,463 Federal observers and 533 Department personnel to monitor 163 elections in 105 jurisdictions and 29 States.

So we're here about something that is really fundamental to improving the voter process in America.

I cannot get it out of my head that we have had two presidential elections in a row where one State in each election determined the outcome of the election, and each time more election violations and accusations of violations occurred in they State that provided the winner of the election with the presidency.

And so I ask unanimous consent to revise and extend my remarks and to include it in the record.

Mr. CHABOT. The gentleman's time has expired, and so ordered.

I would just note—the Chairman would just take a very brief not necessarily rebuttal, but I would just note that in the most recent election, the State that the gentleman was referring to happens to be my State, the State of Ohio, and there were many accusations of problems at polling places and things, and study after study that's been done really indicated that it was a fair election and that the vote was accurate; and I believe it was 118,000 was the margin in Ohio. So it wasn't like Florida, where there were 500 or something that made the difference.

So, for the record, Mr. Conyers.

Mr. CONYERS. Well, for the record—

Mr. CHABOT. Yeah.

Mr. CONYERS. —there is a book out called "What Went Wrong in Ohio," based on a report by the minority staff of the Judiciary Committee that has not been rebutted to my knowledge.

Mr. CHABOT. Yeah. I would just note that I believe that's the minority's opinion on that particular book and isn't—so I'd. But we could get on and on about that. But I—the one thing we do agree on is that the Voting Rights Act is very important and has been significant in protecting the rights to vote for many people in this country, and we're looking seriously at reauthorizing this, and so I think we agree on most of what the gentleman said in his opening statement.

And so I thank the gentleman for that.

Mr. CONYERS. Thank you, Mr. Chairman.

Mr. CHABOT. The gentleman from Virginia, Mr. Scott, is recognized for five minutes.

Mr. SCOTT OF VIRGINIA. Thank you, Mr. Chairman.

Mr. Chairman, sections 6 through 8 of the Voting Rights Act contain the Federal Examiner and Observer provisions of the act, which allow Federal employees to observe polling place and voter counting activities and serve to document and deter inappropriate conduct.

Although these provisions are permanent, the primary way these provisions are utilized is through the section five preclearance coverage formula, which is set to expire in August 2007.

Federal observers have been deployed in every year, just about every year. From 1966 through December 8, 2003, almost 25,000 observers have been deployed in approximately a thousand elections.

While observer coverage in the early years was almost exclusively designed to protect the rights of Black voters in the Deep South, in recent years it has been approximately a 50-50 split between traditional election coverage and election coverage designed

to protect the rights of minority language voters in various areas of the country.

In addition, the Department has routinely deployed its own civil rights personnel to serve as civil rights monitors in jurisdictions not covered by the Voting Rights Act.

During the 2004 election, the Department of Justice sent approximately 840 Federal observers and more than 250 Civil Rights Division personnel to 86 jurisdictions in 25 States to monitor general election activities to ensure voters were free from harassment, intimidation, and other illegal activity.

Over the last 40 years, the nature of the Federal examiner has changed. The examiner now usually plays a more administrative role; whereas, the observer's role has become more central to protecting voting rights.

Observers monitor elections in any certified jurisdiction for the purpose of observing whether eligible voters are allowed to vote, and whether votes cast by eligible voters are properly being counted.

Observers essentially serve as witnesses for what occurs in the polling place and during the counting of the vote.

In the case *U.S. v. Berks County*, that case shows the value of observers in documenting problems within the polls. The United States won the case, based upon the court-appointed observers' substantial evidence of hostile and unequal treatment of Hispanic and Spanish-speaking voters by polling officials.

The *Berks* case also illustrates why observers have a deterrent effect, because poll workers, election officials, and others involved in the election process know that their actions are being observed and recorded, some individuals are going to be discouraged from engaging in inappropriate behavior.

Sections 6 and 8 and other expiring provisions are essential to ensuring the fairness of our political process and equal opportunity for minorities in American politics.

It's imperative that we work together to strengthen these provisions, and I look forward to the testimony of our witnesses.

I yield back.

Mr. CHABOT. I thank the gentleman for yielding back.

The gentleman from North Carolina, Mr. Watt, is recognized for the purpose of making an opening statement.

Mr. WATT. Thank you, Mr. Chairman, and thank the Chairman again and the Chairman of the full Committee for this series of hearings.

I think this is the ninth one we've had on the reauthorization.

Mr. CHABOT. That's correct.

Mr. WATT. And I think we're getting close to building the record that we need related to the expiring provisions and the necessity for their extension.

Today's hearing turns to the last set of provisions scheduled to expire in 2007. Although much of the media coverage and public interest in the Voting Rights Act has been focused largely on section 5 and section 203, the Federal Examiner and Observer Program has historically played an integral role in ensuring that voting rights are actually shielded from Election Day abuses and the violation of those rights are properly documented.

While there is some question about the necessity of the Federal examiner provisions going forward, the role and continued need of well-trained Federal observers assigned to monitor elections in certified jurisdictions is absolutely critical.

The value to the average citizen of a Federal presence at the polls in those jurisdictions with a pattern of voting irregularities and infractions is simply incalculable.

Voters feel more at ease and confident when the Government places a high priority on election monitoring.

Conversely, those who might otherwise commit fraud or harass or intimidate eligible voters are deterred from doing so.

Despite significant gains in preventing blatant acts of discrimination at the polls, intentional efforts to undermine racial and language minority voters persist.

Last week the Voting Rights Initiative of the University of Michigan Law School issued its final report entitled "Documenting Discrimination in Voting: Judicial Findings Under Section 2 of the Voting Rights Act Since 1982." And I'm going to ask unanimous consent that we enter this report in the record, Mr. Chairman.

Mr. CHABOT. Without objection, so ordered.

Mr. WATT. Combing through the over 700 court cases, the researchers document repeated and sometimes egregious evidence of intentional discrimination against Native Americans, elderly African-Americans, and others on election day.

Just last year, at the request of Ranking Member Conyers, Congressman Waxman and Senator Lieberman, the GAO reviewed the Department of Justice's activities to address—acknowledged election-related voting irregularities, including conduct prohibited by the Voting Rights Act in Florida and other jurisdictions during Election 2000, and I would ask unanimous consent that that report be entered into the record also.

Mr. CHABOT. Without objection, also so ordered.

Mr. WATT. Although a DOJ witness could not be here today, or at least not a current employee of the DOJ, I would encourage the continued deployment of DOJ attorneys and other professionals on a judicious and non-political basis to supplement, but not to replace the work of statutorily authorized observers.

Federal observers have statutory rights to access not shared by Department of Justice attorneys.

It is important that this access to the polling place be preserved to guarantee every voter's ability to cast their vote and to have their votes counted free of unlawful discrimination.

Finally, Mr. Chairman, one final thing I want to deal with—that's—really we haven't had a hearing on yet, but there's been some testimony about over the course of our hearings, and that's we need to make sure that the award of expert fees to prevailing parties in litigation is put into the reauthorization.

The fees of experts in these cases are just—have become a real burden for everybody. I understand that prior to the 1982 reauthorization, there was an agreement to put this provision in, and because of the crunch at the last minute, the provision actually just never got put into the law.

And I don't think there's really any controversy about it. Prior testimony has already established the incredible expense imposed

on *bona fide* victims of voting rights violations to assemble the necessary evidence to sustain their burden of proof in a private action.

By allowing expert fees to prevail in parties, we would bring the Voting Rights Act into conformity with other Civil Rights legislation and promote the continued partnership between individual and Government enforcement that has made the act the success it is today.

I thank you, Mr. Chairman, and yield back and look forward to the witnesses; welcome them and thank them for being here.

Mr. CHABOT. I thank the gentleman. The gentleman's time has expired.

The Chair would also note the presence of a distinguished Member of the House, Congressman David Scott of Georgia, whose attendance has been exemplary at these hearings. Not actually a Member of this Committee, but I'd ask unanimous consent that he be recognized and have all the rights of a Committee Member today and be allowed to make an opening statement should he chose to do so, and also be allowed to question witnesses.

The gentleman is recognized, if he'd like to make an opening statement.

Mr. SCOTT OF GEORGIA. Well, thank you, Mr. Chairman.

I would just like to associate my remarks with my distinguished Democratic colleagues who've spoken eloquently on the statements so far in the interest of time.

But there is—and my Republican colleague, the Chairman, quite naturally. Thank you, Mr. Chairman. I also recognize you first.

If it were not for your graciousness, I wouldn't be here with this excellent opportunity.

Mr. CHABOT. Thank you. I was listening. Thank you.

Mr. SCOTT OF GEORGIA. Well, I may add, I had already gone over and shaken [sic.] his hand and thanked him personally.

Mr. WATT. I just didn't want him to engage in that oversight, Mr. Chairman.

Mr. CHABOT. When all this goodwill is over. Yeah.

Mr. SCOTT OF GEORGIA. And only one point that I certainly want to—a point that I think we would—I'm interested in is the why Federal observers are—you think they are—Mr. Weinberg, especially I was reading over your testimony earlier today—and your point about why Federal observers are necessary, but Federal examiners are not, certainly begs for some good discussion. So I look forward to that.

Thank you, Mr. Chairman.

Mr. CHABOT. Thank you. The gentleman's time has expired.

I'd like to—before I introduce the panel—note that without objection all Members will have 5 legislative days to submit additional materials for the hearing record.

And I'd now like to introduce our very distinguished panel of witnesses here this afternoon. Our first witness will be Ms. Nancy Randa, Deputy Associate Director for Talent Services, Human Resources, Products, and Services Division, at the U.S. Department of Personnel Management.

As Deputy Associate Director, Ms. Randa oversees the services and support provided to Federal agencies in staffing and human re-

sources, organizational and individual assessment, training and management assistance, and technology services.

Included in her responsibilities is overseeing OPM's Voting Rights Program, which deploys observers to designated polling sites to monitor elections.

Prior to serving as Deputy Associate Director, Ms. Randa served as Acting Associate Director for Merit Systems Oversight and Effectiveness, where she spearheaded a variety of projects that support human capital management and accountability.

Ms. Randa is an active supporter of human resources workforce transformation efforts, working on HR curriculum efforts at the graduate school operated out of the U.S. Department of Agriculture, and with the Human Resources Management Council.

We welcome you here this afternoon, Ms. Randa.

Our second witness will be Ms. Penny Pew.

Ms. Pew has served as Apache County Elections Director since 2001. She has been a certified Elections Officer with the Arizona Secretary of State's Office since 2001, as well as Arizona's League of Cities and Towns.

In 2003, Ms. Pew successfully completed the Southwest Leadership Program for Local and State Government from the University of Arizona Institute for Public Policy and Management.

In 2004, Ms. Pew partnered with the Navajo Nation Office of the Speaker on the successful Get Out the Vote 2004 Campaign. She most recently served as a panelist for the National Commission on the Voting Rights Act. We welcome you here this afternoon, Ms. Pew.

And our third and final witness will be Mr. Barry Weinberg.

Mr. Weinberg is a former Deputy Chief and Acting Chief of the Voting Section at the U.S. Department of Justice.

From 1965 until 2000, Mr. Weinberg served in many key roles at the Department, including supervising investigations and litigation under the Voting Rights Act.

In December 1999, the Barry H. Weinberg Award was established by the Department of Justice, recognizing an individual who has made an outstanding contribution to the effectiveness of the Federal Observer Program for monitoring polling place procedures under the Voting Rights Act.

Mr. Weinberg is the author of numerous articles on the Voting Rights Act, including a 2002 law review article, co-authored with Lynne Utrecht, titled "Problems in America's Polling Places: How They Can be Stopped."

Welcome, Mr. Weinberg, as well, as all the panelists. And I would—as I had noted before, the—for the record, the Department of Justice was scheduled to be our fourth witness here today, but due to a scheduling conflict, they were unable to be here.

The Department of Justice has submitted written testimony, which has been made available to us, and has offered to make themselves available at a later date and to respond to any written questions that this Committee might have, and those could be submitted to the Department of Justice.

A couple of other items I just need to mention is some of you have testified before; some of you may not be aware of this. We have what's called a 5 minute rule. There are two sets of lights

there. They'll go for 5 minutes. For 4 minutes, they'll be green. When there's 1 minute left, it'll turn yellow, and red light will come on when your 5 minutes is up.

I won't gavel you down immediately at that time, but we'd ask within reason to try to stay within that 5 minutes as much as possible.

It's also the practice of the Committee to swear in all witnesses appearing before it, so if you wouldn't mind, if you could each stand and raise your right hand.

[Witnesses sworn.]

Mr. CHABOT. Each witness has indicated in the affirmative. Thank you.

And we'll now hear from our first witness. Ms. Randa, you're recognized for 5 minutes.

TESTIMONY OF NANCY RANDA, DEPUTY ASSOCIATE DIRECTOR FOR HUMAN RESOURCES PRODUCTS AND SERVICES, U.S. OFFICE OF PERSONNEL MANAGEMENT

Ms. RANDA. Thank you, Mr. Chairman and Members of the Subcommittee. I am pleased to be here this afternoon to discuss the Office of Personnel Management's role in carrying out sections of the Voting Rights Act of 1965.

OPM works closely with the Department of Justice, specifically the Voting Section of the Civil Rights Division to assign voting rights observers to locations designated by the Department.

OPM's ultimate success with this program depends on its ability to recruit, train, deploy, and supervise observers of Election Day procedures.

Under the Voting Rights Act, at the request of a U.S. District Court or the U.S. Attorney General, OPM provides for appointment of 1: examiners, to examine and register qualified individuals denied the right to register in covered jurisdictions; 2: hearing officers, to entertain challenges to the actions of examiners; 3: support staff; and 4: observers to monitor actual polling places on Election Day and the subsequent tabulation of the votes.

Since 1966, we have deployed over 26,000 observers in a total of 22 States. Prior to 1976, we sent observers to only five States—Alabama, Georgia, Louisiana, Mississippi, and South Carolina.

However, in the past 10 years, as more jurisdictions have been subject to coverage under the Minority Language provisions of the act, we sent the next largest number of observers after Mississippi to these States: Arizona, New Mexico, New Jersey, California, Michigan, Pennsylvania, and New York.

Voting Rights observers serve as neutral monitors, witnesses, who do not intervene if there are violations. They only watch, listen, and record events that occur at particular polling sites on election days.

At present, we have a pool of approximately 900 intermittent employees, called into service on an as needed basis, who come from all walks of life, including Federal employees and retirees, students, and other public and private sector workers.

We schedule 1-day classroom sessions for observers to provide in-depth training on the overall process, on specific observer responsibilities, and on administrative issues.

We also provide refresher training during pre-briefing sessions on the day before the election. Whenever possible, we do role playing in the training to demonstrate to the observers the proper way of handling themselves at the polling sites.

In brief, the deployment process works this way: Prior to an election, the Department of Justice notifies OPM as to when and where it will need observers.

OPM then assigns a Voting Rights Coordinator to work with Justice's lead attorney to allocate observers to polling sites, coordinate logistics, and assign a captain to oversee the execution of the deployment.

The day before an election, a Department attorney briefs the observers, specifying issues of concern and activities to be reported. Throughout the day, observers report such information to the captain, who passes this information to a Department attorney. Only the Department of Justice determines if intervention is necessary, and only the Department of Justice takes action.

Toward the end of election day, the attorney determines when to call back the observers. The observers then return to their staging site and prepare a written report, one for each polling site, to document what they saw and heard throughout the day.

This is the bulk of what OPM does. But the statute also calls on OPM to have an examiner for each jurisdiction where observers will be assigned.

Originally, these examiners prepared a Federally-maintained list of voters who were denied the right to register in covered jurisdictions and they received calls from citizens regarding election day issues or incidents.

This function, however, has changed over the years. No voters have been added to the Federally-maintained list since 1983, as registration barriers have largely been eliminated.

Moreover, since there have been no challenges to registration decisions in the past 30 years, there has been no need for hearing officers.

Also due to advances in technology, toll-free numbers now allow citizens to report incidents and information to these examiners remotely in real time and 24 hours a day during the election period.

Under the act, OPM is required to publish voter registration qualifications of each covered State in the Federal Register, as well as to publish the list of examiners, places for voter registration, and examiner assignments.

However, these publications requirements may no longer be necessary since they are now covered nationwide by provisions of the Help America Vote Act and the National Voter Registration Act, which set out Federal standards for voter registration.

That concludes my testimony, and I would be pleased to respond to any questions the Subcommittee may have.

[The prepared statement of Ms. Randa follows:]

PREPARED STATEMENT OF NANCY RANDA

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here this afternoon to discuss the Office of Personnel Management's (OPM) role in carrying out sections 3, 6, 7, 8, 9, and 12 of the Voting Rights Act of 1965 (the Act).

Currently, implementation of the Voting Rights Act at OPM is managed by the Division for Human Resources Products and Services in the Center for Talent Services. This office works closely with the Department of Justice (the Department), specifically the Voting Section of the Civil Rights Division, to assign Voting Rights observers to locations designated by the Department. OPM's ultimate success with this program depends on its ability to recruit, train, deploy, and supervise observers of election-day procedures.

With regard to responsibilities assigned to OPM (prior to 1979, the U.S. Civil Service Commission), the Voting Rights Act provides, at the request of a U.S. District Court or the Attorney General of the United States, for the appointment of examiners to interview, ascertain qualifications, and register, if appropriate, qualified individuals denied the right to register by State and local officials in covered jurisdictions; hearing officers to entertain appeals and challenges to the actions of examiners; support staff as necessary to allow these individuals to perform their responsibilities; and observers to monitor actual polling places on election day and the subsequent tabulation of the votes. These provisions have not materially changed since initial passage of the Act in 1965. The Voting Rights Act also requires OPM to promulgate regulations on procedures for challenging the actions of examiners and to publish in the Federal Register individual State registration qualifications.

Since 1966, we have deployed over 26,000 observers in a total of 22 States. Prior to 1976, we sent observers to only 5 States: Alabama, Georgia, Louisiana, Mississippi, and South Carolina. In the past 10 years, as more jurisdictions have been subject to coverage under the minority language provisions of the Act, we sent the next largest number of observers, after Mississippi, to these States (in this order): Arizona, New Mexico, New Jersey, California, Michigan, Pennsylvania, and New York.

Voting Rights observers serve as neutral monitors, who do not intervene if there are violations. They only watch, listen, and record events that occur at particular polling sites on election days. At present, we have a pool of approximately 900 intermittent employees—called into service on an as-needed basis—who come from all walks of life, including Federal retirees, students, other public- and private-sector workers, and some full-time employees of various Federal agencies.

We schedule one-day classroom sessions for observers to provide in-depth training on the overall process, specific observer responsibilities, and administrative issues. We also provide refresher training during pre-briefing sessions on the day before the election. Whenever possible, we do role-playing in the training to demonstrate to the observers the proper way of handling themselves at the polling sites.

In brief, the deployment process works this way: Prior to an election, the Department notifies OPM as to when and where it will need observers. OPM then assigns a Voting Rights Coordinator to (1) work with Justice's lead attorney to allocate observers to polling sites; (2) coordinate logistics, such as arranging hotel meeting space and sleeping rooms for observers, leasing mobile phones, and making rental car and airline reservations to transport observers; and (3) assign a captain to oversee the execution of the deployment.

The day before an election, a Department attorney briefs the observers, specifying issues of concern and activities to report. For example, if a jurisdiction has been suspected of hampering non-English speakers' right to have interpreters or of not providing ballots in other languages as directed by consent decrees or court orders, the Department's attorney may ask that observers witness the provided assistance and/or make note of how many voters received language assistance. Observers may also be asked to note how many non-English speakers were turned away from polling sites or were given provisional ballots. Throughout the day, observers report such information to the captain, who passes this information to a Department attorney. Only the Department determines if intervention is necessary, and only the Department takes action. Toward the end of an election day, the Department determines when to call observers back. The observers then return to their staging site and prepare written reports—one for each polling site—to document what they saw and heard throughout the day.

That is the bulk of what OPM does. The statute also calls on OPM to have an examiner for each jurisdiction where observers will be assigned. Originally, examiners prepared a Federally maintained list of voters who were denied the right to register by State and local officials in covered jurisdictions, and they received calls from citizens regarding election-day issues or incidents. This function, however, has changed over the years. No voters have been added to the Federally maintained list since 1983 as registration barriers have been eliminated. Moreover, since there have been no challenges to registration decisions in the past 30 years, there has been no need for hearing officers. Also, due to advances in technology, toll-free numbers

allow citizens to report incidents and information to examiners remotely, in real time, and 24 hours a day during the election period.

Under the Act, OPM is required to publish voter registration qualifications of each covered State in the Federal Register. It has also been required to publish the list of examiners, places for voter registration, and examiner assignments. However, these publication requirements may no longer be necessary, since they are now covered nationwide by provisions of the Help America Vote Act (HAVA) and "Motor-Voter" statute (National Voter Registration Act), which set out Federal standards for voter registration.

OPM's Voting Rights Program costs have ranged from under \$1 million in earlier years to a high of \$4 million in the Fiscal Year that included the 2004 general election. Putting aside the expected increase in 2004, the overall trend has been for an increase in program coverage and cost, particularly for minority-language coverage.

That concludes my testimony, and I would be pleased to respond to any questions the subcommittee may have.

Mr. CHABOT. Thank you very much. Ms. Pew, you're recognized for 5 minutes.

**TESTIMONY OF PENNY L. PEW, ELECTIONS DIRECTOR,
APACHE COUNTY, ARIZONA**

Ms. PEW. Thank you, Mr. Chairman, Members of the Subcommittee, for the opportunity to testify today for the reauthorization of section 6 and section 8, as they relate to section 203 of the Voting Rights Act.

As stated before, my name is Penny Pew, and I've been the Elections Director in Apache County since 2001.

And one of our primary focuses has been providing the minority and prospective voters the necessary election materials to ensure that each vote cast is an informed vote.

While this education began in the 1990's as a mandate, we continue to provide these services to our electors so that the rewarding changes that we have experienced will continue.

I would like to speak to the Federal Observer Program, which I believe was implemented following guidelines from the consent decree.

The Observer Program has successfully functioned as a check and balance feature in the translator program. One of the three-member teams sent to the 33 precincts on the Navajo Nation speaks Navajo, who I view as a partner.

During the day, these observers are able to witness poll workers and translators assisting the voters as they impart ballot information. The observers ask voters if they may observe the process. They do not interfere with the process and have never, to my knowledge, given any instruction to improve or to correct a process.

The observers note different scenarios occurring during the course of the day to ensure that fraudulent information is not given to voters. In some instances, the observers report happenings to their DOJ central contact, who I meet with on each Federal Election Day.

We are able to discuss the information relating to the day's events at the polling places. This is absolutely the best way for me to know instantaneously of situations that can be rectified in a very timely manner.

I explain to those poll workers that the individuals have been invited to help us do our duties. Observers are greeted by the inspector of the polling place in an attempt to put all parties at ease and

to assure the poll workers that the observers should not be viewed as hostile.

Identification is presented and worn by each observer throughout the day. Due to the rural area of Apache County and in an attempt to minimize their presence, observers are requested to dress casual to better fit their surroundings.

In follow-up post-election meetings, these notes are discussed, and, if necessary, changes are made in personnel or training procedures to ensure that no repeat incidents occur.

As you are aware, the Navajo language is unique and could be very easily misinterpreted. Translators who serve on these election boards attend exclusive training classes, which are taught by full-time outreach workers, using written copies, flip charts, cassette recordings.

During these classes, members are asked to read aloud the information together as a whole group. Open questions and clarifications are given by the outreach workers to ensure that each translator is uniform in their ballot translation, voter to voter, precinct to precinct.

In 2004, Apache County extended partnership to include the Navajo Nation Office of the Speaker. We provided various educational materials through chapter meetings, community forums, fair booths, and frankly anywhere there were voters.

I am pleased to report that this was a worthwhile project. As it turned out, Navajo Nation increased to 17,955 voters, comparatively to 14,277 voters in 2000. Additionally, the numbers increased in a precinct on the White Mountain Apache land from 44 voters in 2000 to 62 in 2004.

Now, as an Election Director, I've spent untold hours developing a program that is indigenous to Apache County. I've spent time in the polls and in the communities listening to these voters, learning what we as election directors can do to ensure that the most fundamental right as citizens of this great nation enjoy the right to an informed vote, with the knowledge that it will be counted without worry of fraudulent actions in or out of the polling place.

In closing, I fervently believe that is incumbent upon this Committee to use the expertise of each witness to further the Voting Rights Act, sections 6 and 8, Federal Examiner and Observer provision; and continuing programs such as the one used in Apache County.

The observer program has proven successful for us, and has given us insight to the happenings at each polling place that would otherwise go unnoticed.

For these and other additional reasons, which are stated in my written testimony, the reauthorization of these sections is critical to maintaining the robust program in Apache County.

And, again, thank you for your—for this opportunity.

[The prepared statement of Ms. Pew follows:]

PREPARED STATEMENT OF PENNY L. PEW

Thank you Mr. Chairman and committee members for the opportunity to testify before you today regarding the reauthorization of Section 6 and Section 8 as they relate to Section 203 of the Voting Rights Act, 42 U.S.C. 1973c.

My name is Penny L. Pew, and I am the elections director of Apache County in northeastern Arizona. I have had the pleasure of this position since June of 2001.

My primary focus has been on providing the minority and prospective voters, the necessary election materials to ensure that each vote cast is an informed vote. While this education began in 1982 as a mandate, we continue to provide services to our electors so that the rewarding changes that we have experienced will continue.

FEDERAL OBSERVER PROGRAM

Following a lawsuit charging Apache County with discrimination against Native Americans, as it related to election procedures and materials, a 1989 Consent Decree was entered establishing the Navajo Language Election Information Program. A portion of this program was the observer program which has successfully functioned as a check and balance feature to this program.

According to the 2000 census, the total population of Apache County is 69,423 persons, of whom 53,375 are Native American (76.9%). The voting age population of 42,692 persons, of whom 31,470 are Native American (73.7%); and that of all Native Americans of voting age, over one-third are limited-English proficient (11,377 persons).

Most of the 3 member teams sent to the 33 precincts located on the Navajo Nation have at least one Navajo speaking member, who I view as a "partner". During the day, these observers are able to witness poll workers and translators assisting the voters as they impart ballot information. The observers ask voters if they may observe the process. They do not interfere with the process and have never to my knowledge given any instruction to correct or improve a process. The observers note different scenarios occurring during the course of the day to ensure that fraudulent information is not given to voters. In some instances, the observers report happenings to their DOJ central contact, who I meet with on Election Day. We are able to discuss the information relating to the days events at the polling places. This is absolutely the best way for me to know instantaneously of situations that can be rectified in a timely manner.

I explain to the poll workers that these individuals have been 'invited' to help us as we do our duties. Observers are greeted by the Inspector of the polling place in an attempt to put all parties at ease and assure the poll workers that the observers should not be viewed as hostile. Identification is presented and worn by each observer throughout the day. Due to the rural area of Apache County and in an attempt to minimize their presence, observers are requested to dress casual to better fit their surroundings.

In a follow-up post election meeting, these notes are discussed and if necessary, changes are made in personnel or training procedures to ensure no repeat incidents.

Translators who serve on the election boards attend extensive training classes which are taught by full-time outreach workers using Power Point presentations, flip charts, cassette recordings as well as written copies, of the ballot information. Each translator and Inspector (lead poll worker) are provided a cassette and also written ballot information. During the training classes, each member is asked to read aloud the information. This is accomplished in a relaxed atmosphere where the class participates as a whole. Open questions and clarification are given by the outreach workers to ensure that each translator is uniform in their ballot translation, voter to voter, precinct to precinct.

VOTER OUTREACH AND EDUCATION

Advertisements

Apache County has provided bulletin boards to each chapter house facility where upcoming election information is posted and kept current. Voters have learned to use this tool in gaining the necessary election information. Periodic checks are done to ensure that only current information is posted.

Radio stations and newspapers have been instrumental in distributing the necessary election information. This was originally outlined in the Consent Decree 1989 with many additional measures added for further enrichment.

Language Training

As each of you are aware, the Navajo language is unique and without extensive linguistic training, could be misinterpreted. A Navajo Language Election Glossary has been developed over the years with input from outreach workers in Arizona, New Mexico, Utah, and the Navajo Nation in an effort to make the election terminology used county to county and state to state as uniform as possible. As times and technology change, the glossary is updated through proper approval.

The outreach workers use this glossary to translate ballot issues in a Tri-County forum to further ensure uniformity. This is imperative, as many precincts lie on

county lines where voters may see more than one county ballot, radio or newspaper ads or other informational materials.

Translators/Poll workers

Poll workers are given a detailed manual to use as a guide in fulfilling their obligations on Election Day, in a uniform manner. Additional items are distributed to ensure that the poll worker has all the tools necessary to assist the voter. In an effort to further educate, role playing was implemented and has proven to be a valuable tool in explaining ballot measures, as they are often very complicated.

Due to the extensive land area of over 11,000 square miles, training classes are held in various locations throughout the county to allow the poll workers and translators easier access to training. Each individual is compensated for their time to attend these classes.

After the training class, poll workers are encouraged to listen to their audio cassette and practice the issues. Many mentioned that they didn't have access to a player. So, in 2003, we established a cassette player library for workers to check out a player to listen and study the information. This was well received and the post election remarks indicated improvement; additionally, all cassette players were returned to the county library.

State and County Monitoring of Effectiveness

Meetings are scheduled on Tri-State and Tri-County levels to discuss any issues that may need to be remedied. Any/all issues are handled by each county official to keep uniformity in the informational disbursement process. Tri-county personnel work closely on translations and exchanges of information to better ensure uniformity in the disbursed information. NEA officials are invited and usually attend these meetings with valuable input on the issues.

NEA (Navajo Election Administration)

All information is approved by the NEA prior to distribution including but not limited to announcements (radio and print), ballot translations, audio tapes, and any other training information. All training schedules are provided to the NEA and an open invitation to attend any/all class.

The following is taken from a letter written to me by Kimmeth Yazzie, Navajo Nation Program Coordinator/Language contact:

"The purpose of the minority language Consent Decrees has generated a much greater cooperation and assistance to provide the necessary election and voter registration services to the Navajo Nation within the counties, much more than was anticipated from the beginning. Although the Consent Decree specific to Apache County expired in 1992, the county and the Navajo Nation continue to strive forward to this day to make voter registration and elections easier for the citizens in Apache County. Such services as situating outreach offices and Navajo speaking personnel in local areas with additional personnel when it becomes necessary, has made voting easier for the people of Apache County. An example, the development of the Navajo Glossary has opened doors to better communication with the Navajo Nation citizens as well as other tribes seeking development of the same methods of outreach. Developments of graphic materials and video and audio recordings provide our people with a better understanding of the elections. Bringing voter registration to the local area eliminates the long distance travels just to register to vote for outlying areas. Setting up and coordinating events together with the Navajo Nation and the county provides voters with two services at one location and a better understanding of the two distinctive elections. The clearance of all materials and information through the Navajo Election Administration provides assurance to the Navajo Nation that the proper and sufficient election information is provided to the people of the Navajo Nation, thus developing trust and alliance. Ideas to better provide services are always being exchanged between the county and the Navajo Nation. We learn from each other. Since the expiration of the Consent Decree in 1992, the relationship between the tribe and the county has grown and advanced beyond the bounds of the Consent Decree requirements.

In closing, I can honestly say that the language program has been positive for our county in educating and promoting our most fundamental right . . . the power of our vote."

Outreach/Satellite Offices

Apache County has two county district offices which are on Reservation Land; District I in Chinle houses a satellite office. District II in Ganado houses a second

office. Voters and residents of surrounding areas visit to check voter registration and to receive any election updates.

Regular meetings are scheduled and appear on agendas for the chapter visits at which time presentations are given using flip charts, PowerPoint presentations, audio aids as well as other means to convey the necessary information. Presentations are given in the Navajo language.

All political views of the outreach workers are kept unbiased and neutral at all times. Implementation to 'piggy-back' with the jurisdictions has been effective in that the outreach worker gives factual ballot information and the jurisdictions are available to answer any additional questions that the public may have.

Deputy Registrars

Deputy Registrars have proven valuable in assisting the voters in the ongoing voter registration and education process. Each Deputy Registrar is trained in current procedures. Each chapter office, Navajo Election Office and other Navajo Nation officials are trained and have provided further election information. Each chapter maintains a current voter listing, voter registration forms and during election cycles, early voting request forms.

Collect Phone Calls

Apache County happily accepts collect calls to assist the caller in election-related information. In an effort to better serve the people, an '800' number is advertised on all out-going materials and advertisements as well as the website.

Voter Education

Numerous items with voter information in distributed to spark interest in what has been viewed as boring in the past. Colorful brochures and interactive community meetings have been the focus in gaining voter recognition. For instance, during the Presidential Preference Election, February, 2004, in an effort to better explain who may vote, an informational brochure was produced in English, receiving positive input. A mirror copy was then distributed in the Navajo language. This helped gain further notice among the voters, with the outreach workers receiving community comments for further ideas in education. We also provide "I Voted" stickers in the Navajo language and it has been spectacular.

VOTER TURNOUT

In 2004 Apache County extended partnership to include the Navajo Nation Office of the Speaker in an effort known as "Get the Vote Out". Due to the low voter turnout experienced in past elections, we provided various educational materials at chapter meetings, community forums, fair booths, and anywhere there were going to be voters. I am pleased to report that this was a worthwhile project as turnout in precincts on the Navajo Nation increased to 17,955 voters casting ballots in 2004, comparatively 14,277 voters participated in 2000. Additionally, on the White Mountain Apache Lands, Apache County has one precinct where 44 voters participated in 2000, rising in 2004 to 62. This is due in part to the education at school and community meetings.

Political Protocol

During the 2002 election cycle, a non-Native American entered several polling places without the proper clearance. While inside the polling place, he intimidated the poll workers and voters, creating chaos as he progressed to various polls. For this reason alone, we implemented a Political Protocol presentation and accompanying brochure. The brochure is included in each candidate packet and a personal invitation to attend a short meeting outlining the proper protocol when campaigning on Native Lands. This is sent to each candidate, county, state or federal. We had great success and I am pleased to report that during the five elections which were held in Apache County in 2004, we had no reported violations in or around the polling places.

Early Voting

Ballot request forms are given to the Chapter Officials, County District offices on the Navajo Nation, State offices and the NEA. Outreach workers keep forms with them at all times while traveling and presenting throughout the county. These forms can also be accessed using the website www.co.apache.az.us/recorder.

Early Voting drives are unique in Apache County. After specified advertisements in newspaper and on radio, a trailer which has been painted in a patriotic motif travels to scheduled locations throughout the rural areas. This trailer can be found many places such as on fence lines, shopping lots, trading posts, and post offices to name a few.

Election Day

Apache County employs trained bilingual poll workers at each of the polling places on Native Lands. These poll workers are recruited with the help of chapter officials, postings and word of mouth.

Where joint elections are held between the Navajo Nation and the County, where polling places are shared, all efforts are made to make certain that the poll workers are trained and that a good working relationship is established between the Navajo Nation and the County officials to provide an enjoyable election day. The NEA and the County exchange poll worker lists to ensure that no candidate or close relative appears on either ballot.

Each polling place is monitored for effectiveness by a 'Troubleshooter.' This person is a county employee who has received training in the election process and is able to identify and correct irregularities on-the-spot. This person is the liaison between the county elections director and the polling place.

CLOSING COMMENTS

As election director, I have spent untold hours developing a program that is indignant to Apache County. I have spent time in the polls and in the communities listening to the voters, learning what we as election directors can do to ensure that the most fundamental right as citizens of this great nation enjoy . . . the right to an informed vote with the knowledge that it will be counted without worry of fraudulent actions in or out of the polling place.

In closing, I fervently believe that it is incumbent upon this Committee to use the expertise of each witness to further The Voting Rights Act: Sections 6 and 8—Federal Examiner and Observer Provisions, in continuing programs such as the one used in Apache County, Arizona as it relates to the Native Americans. The observer program has proven successful for us and has given us insight to the happenings at each polling place that may otherwise go unnoticed. For these and other additional reasons, which are stated in my written testimony, the reauthorization of these sections is critical to maintaining the robust program in Apache County. Again, I thank you for this opportunity.

Mr. CHABOT. Thank you very much, Ms. Pew.
Mr. Weinberg, you're recognized for 5 minutes.

**TESTIMONY OF BARRY H. WEINBERG, FORMER DEPUTY CHIEF
AND ACTING CHIEF, VOTING SECTION, CIVIL RIGHTS DIVISION,
U.S. DEPARTMENT OF JUSTICE**

Mr. WEINBERG. Thank you very much, and thank you for asking me to come here.

I may be one of the few witnesses that you have who is not connected with any office or organization, and probably one of the fewer witnesses that you're going to have that was there at the inception of the Voting Rights Act and saw the Federal examiners listing people to vote and saw the Federal observers when they first started.

But I know I'm the only one here among the witnesses who was a supervisor of the Federal Examiner and Observer Program in the Justice Department for 25 years, and it's from that vantage point that it seems to me that there are at least three questions that ought to be addressed now when we're thinking about the reauthorization of these provisions.

The first question is whether the provisions for Federal observers and Federal examiners are still needed. I think that the answer to that question is that the provisions for the Federal observers are crucial to the enforcement of the Voting Rights Act, and need to be reauthorized, maybe even made permanent; but the provisions for the Federal examiners not so much.

The Federal examiners' functions—most of them are outdated. The procedures are cumbersome and archaic, and I don't think they

serve any real purpose anymore. And so my conclusion would be that they're not needed anymore in the Voting Rights Act as it stands today.

The second question I think is whether there should remain a link between the certification of a county for Federal examiners and the later assignment of Federal observers to the county.

Under the Voting Rights Act, the certification of a county for Federal examiners is a prerequisite to the assignment of Federal observers.

But the functions that they perform, the link that they had, doesn't exist anymore. When Federal examiners first registered people to vote, those people had to go to polling places where there were hostile election officials. You had African-American voters facing hostile White polling place workers and voters for the first time in many, many rural areas across the South. The Federal observers were written into the act to watch what happened to those newly enfranchised voters and to allow the Justice Department to take action to assure their safety in the polling places. That situation just doesn't exist anymore, and I think the linkage is cumbersome and ought not to exist either.

The third question I think is whether the Federal observers ought to be continued as a law enforcement function under the Voting Rights Act, which is what they perform; or whether it's possible to make the reports and information from the Federal observers public after the election, as is done overseas.

I just got back last week from being an international observer in an election in Azerbaijan, and I've done that a few other times. The organizations that do that kind of work do it in order to publicize the information that they get from the polls immediately after the election.

But I think that would be a real mistake. I think that the use of Federal observers in law enforcement is important and ought to be continued and the publication of the information they get immediately would be detrimental.

All this revolves around what I consider the most important point, which is that the existence of Federal observers is crucial, and it's irreplaceable in the Voting Rights Act. After all, there's no other way for the law enforcement function of the Justice Department to be able to be performed with regard to harassment and intimidation and disenfranchisement of racial and language minority group members in the polling place on Election Day. And that's because State laws are written to keep other people, including Federal investigators out of the polls.

State laws, almost all of them—and they vary, but invariably they allow in the polls on Election Day the voters and the polling place officials, and they keep everybody else out. They allow police in if there's a disturbance, but mainly it's to have this safe harbor for voters on Election Day. But the effect of that, from a law enforcement point of view, is it keeps the law enforcement officers out. There is no way that the Justice Department lawyers could know about this harassment and this intimidation without the Federal observers, because the Voting Rights Act allows the Federal observers in. Federal observers are witnesses. They are the eyes

and the ears of the Justice Department attorneys in the polling places.

Without them, the law, the enforcement of the Voting Rights Act would be much abused, and so I would—my conclusion is that the observer provision is necessary. It ought to be reauthorized. It ought to be continued, and I think there should be some consideration given to making it permanent, taking it out of the special provisions and making it adjunct to sections 2 and 203 of the Voting Rights Act.

[The prepared statement of Mr. Weinberg follows:]

PREPARED STATEMENT OF BARRY H. WEINBERG

Statement of

Barry H. Weinberg

Before the

Subcommittee on the Constitution
Committee on the Judiciary
United States House of Representatives

Concerning

The Voting Rights Act: Sections 6, 7 and 8— Federal Examiner and Observer Provisions

November 15, 2005

Chairman Chabot, Ranking Member Nadler, distinguished members of the Subcommittee:

Thank you for inviting me to talk this afternoon about the federal examiner and federal observer provisions of the Voting Rights Act.

There are three central questions on the retention of the federal examiner and federal observer provisions of the Voting Rights Act:

1. Are the federal examiner and federal observer provisions still needed?

The federal observer provision is still needed. Most of the federal examiner provisions are no longer are needed.

2. Should the initial assignment of federal observers to a jurisdiction remain dependent on the certification of the jurisdiction for federal examiners?

No, but a certification-like decision should be required when federal observers are initially assigned to a jurisdiction.

3. Should the federal observer provision remain solely as a law enforcement tool, or should the findings of the observers be made immediately available to the public?

The federal observer provision should remain as a law enforcement function. Publication of the observers' findings would be detrimental to that function.

The following is an overview of the federal examiner and federal observer provisions of the Voting Rights Act, my experience with them, and the reasons why I

have answered the questions as I have. This recitation is followed by a detailed explanation of the Voting Rights Act's provisions for federal examiners and observers—Sections 6, 7 and 8 of the Voting Rights Act—and fact situations and federal court cases that demonstrate why the federal observer provisions are still needed.

The federal examiner and federal observer provisions had a real impact on African Americans in the South.

I was a lawyer in the United States Justice Department's Civil Rights Division from 1966 until my retirement in January 2000. Beginning in 1973 I was partly, and shortly thereafter, wholly in charge of the Justice Department's responsibilities for the federal examiner and federal observer programs. But I began working in the Civil Rights Division as a law clerk in the summer of 1965, and I was there on August 6, 1965, when the Voting Rights Act became law. Shortly after the Act was passed I was assigned to accompany the many other employees of the Civil Rights Division who were working out of an office set up in the federal building in Selma, Alabama. Our primary job was to investigate the beatings suffered by people who earlier that year attempted to march from Selma to Montgomery, Alabama, to protest the disenfranchisement of African Americans in Alabama.

I traveled with Civil Rights Division lawyers from county to county in West Central Alabama to determine the identity of the victims of those beatings and to interview them. As we traveled, we also got information on possible violations of the provisions of the Civil Rights Act of 1964, and we stopped into the offices where federal examiners were giving African Americans their first easy, safe and fair opportunity to register vote. (Local voter registration hours and locations were so restrictive that some white people took advantage of the easy federal voter registration opportunities too.)

Those events gave rise to the issues we are addressing now, 40 years later. A discussion of these issues can easily get blurred by a numbing recitation of legal statutes, provisions and clauses, because that is how the Voting Rights Act is written. I will set out those citations later in my statement by providing sections of an article my wife and I published in the Spring 2002 edition of the Temple Political and Civil Rights Law Review. But first I want to review the federal examiner and federal observer provisions of the Voting Rights Act as they applied to people and voting in the real world.

Under the structure of the Voting Rights Act, a federal examiner can be assigned to any site in the states and counties that are specially covered under the Act's formulae in Section 4, after the county has been certified by the Attorney General of the United States (or in any county certified by court order). Of course, under the structure of the Voting Rights Act, the federal examiners do not technically register people to vote; they examine applicants as to their eligibility under state voter registration laws that are otherwise Constitutional, and then put those applicants who are found to be eligible on a list. The list is given to the local county voter registrar who is required by the Voting Rights Act to enter the eligible applicants' names on the local voter registration rolls.

In the summer and fall of 1965 people were lined up day after day to take advantage of their first opportunity to register to vote. The federal examiners were Civil Service Commission investigators who had been pulled off of the routine jobs they had been doing and sent to sites in Alabama and other Southern states that had been designated by the U.S. Attorney General for federal listing. Besides listing voter applicants, the examiners were available to take complaints about listed people who had not been placed on the county voter registration rolls.

Those examiners were not, on the whole, a happy group. Their presence in small groups of two or three was obvious in town, and their work was opposed by many of white people there. In the main, they ate alone, walked alone and talked mostly to each other. The examiners were eager to know from us, on our rounds, when they would be able to go home. Still, they persevered, and in the end they accounted for the registration of tens of thousands of people who had been discriminatorily kept off of the voter registration rolls. From 1965 to 1972 federal examiners were responsible for the registration of over 170,000 voters. They achieved a signal victory in the fight against racial discrimination in voting.

As the Voting Rights Act is structured, federally registered voters have continuing protection against attempts at keeping them from voting. In any county that has been certified for a federal examiner, the Voting Rights Act authorizes the United States Office of Personnel Management (the successor to the United States Civil Rights Commission) to assign federal observers to polling places as requested by the U.S. Attorney General, to watch voting and vote counting procedures. (Note that the certification of a county for federal examiners is a prerequisite for the assignment of federal observers, but the presence of federally listed voters in the county is not.)

That protection was badly needed in the mid-1960s for newly registered African American voters as they entered the polling places and weathered the stares of white voters and the hostility of the polling place officials. Some examples of the humiliations they faced are set out later in my statement. But for now it is enough to know that they, too, persevered, and under the protective presence of the federal observers, they cast their ballots and participated in the political life of the county for the first time.

The federal observers' job is to watch and take notes. If polling place officials choose to violate their own procedures in order to humiliate racial or minority language voters, or intimidate them, or refuse to allow them the same voting privileges in the polls as the white voters, the federal observers cannot intervene. The observers in a county have co-captains who travel from polling place to polling place, checking with the observers and getting information from them. Those observer co-captains call regularly to a central office established by the Office of Personnel Management. Originally, and for many years, this central office was known as the examiner's office, which had been established for the examiner to take complaints as is required by Section 12(e) of the Voting Rights Act. In the examiner's office there also was a lawyer from the Justice Department's Civil Rights Division (usually from the Voting Section, *nee* Voting and Public Accommodations Section). Today, since the examiner has little or no function,

especially in a county where there are no federally registered voters, the office used in the county on election day is referred to as the captain's office. The observer captain along with a Civil Rights Division attorney are there to receive the calls and the information from the observer co-captains.

When irregularities arise the Division lawyer relays the information about the irregularities to the county official in charge of the election, and allows the county official to take action to correct the irregularities. Where corrective action is not taken or is inadequate, a civil action can be filed later under the Voting Rights Act. A civil action, such as the one described below involving Conecuh County, Alabama, can use the reports of federal observers as effective and unassailable evidence of racially discriminatory actions of polling place officials. After the election the observers provide their reports to the federal examiner, the Attorney General and, if appropriate, to a federal court (if the county is certified for an examiner by a court).

The work of the federal observers as described here continued in the South largely unchanged through the 1990s. These procedures apply too, to the work of federal observers in other areas of the country with important modifications to deal with geographical differences and activities in polling places involving minority language voters.

Federal observers are necessary, federal examiners are not necessary.

Violations of the Voting Rights Act continue to happen in polling places throughout the United States. The need for federal observers to document discriminatory treatment of racial and language minority voters in the polls has not waned. The use of a thousand or more federal observers at election after election beginning in 1965 decreased to the use of hundreds of observers at elections after the early 1980s as a result of the effective enforcement of the Voting Rights Act in Southern states. But the enforcement of the language minority provisions of the Voting Rights Act, added in 1975, has required the use of hundreds more federal observers to disclose to Justice Department attorneys evidence of harassment of members of language minority groups, and instances where ballots and other election material and procedures are not available to those voters in a language they can understand. The result is that between 300 and 600 federal observers continued to be needed annually from 1984 to 2000.

The facts supplied by federal observers to Civil Rights Division attorneys are crucial and irreplaceable in the enforcement of the Voting Rights Act. Most parts of the voting process are open to the public, and the evidence of Voting Rights Act violations that are involved in the voting process can be obtained by Justice Department lawyers through routine investigations. But most state laws limit access to polling places on election day, allowing only voters and polling place officials to remain in the polls (police are allowed too when called to deal with disturbances). Thus, unless an exception is made in these rules to allow federal investigators to get special access to the polls, the harassment of racial and minority language voters and other violations of the Voting Rights Act inside the polling places would go unseen and unchecked.

Federal observers have special access to polling places under the authority of the Voting Rights Act even where access to Justice Department attorneys is otherwise barred. Federal observers thus become the attorneys' eyes and ears. The discriminatory treatment of racial and minority language voters witnessed by the federal observers, as discussed in detail below, runs the gamut from actions that make those voters feel uncomfortable by talking rudely to them, or ridiculing their need for assistance in casting their ballot, to actions that bar them from voting, such as failing to find their names on the lists of registered voters and refusing to allow them to vote on provisional ballots, or misdirecting them to other polling places.

Minority language voters suffer additional discriminatory treatment when people who speak only English are assigned as polling place workers in areas populated by minority language voters. The polling place workers fail to communicate the voting rules and procedures to the voters, or fail to respond to the voters' questions. In some instances, qualified registered voters have been told that they are not permitted to vote because they have not furnished necessary information, such as their address, even when they have provided the information; the poll worker was unable to understand what the voters were saying, but a speaker of the minority language would have understood.

Civil Rights Division lawyers who receive facts from federal observers about violations of the Voting Rights Act provide those facts directly to the election officials in the jurisdictions involved, allowing them to take corrective action in compliance with the Act. In other instances, those facts are used to secure court orders requiring that the jurisdictions involved to comply with the dictates of the Voting Rights Act. In either approach, the end result fulfills the goal of the Voting Rights Act to allow United States citizens to cast their ballots on election day freely and fairly, without distinction because of their race or membership in a language minority group.

That the work of the federal observers is a part of a law enforcement effort—the enforcement of the Voting Rights Act—is especially true where the information from the federal observers is provided in the context of a lawsuit, where a court has certified a county that was not specially covered under the Voting Rights Act. In that situation, the information is given to the court and affects the position of the parties (the Justice Department and the county) with respect to the actions the jurisdiction must take to comply with the Act (the relief that is ordered in the case). Some local election officials have come to welcome the information obtained by federal observers as an additional source showing the extent to which the county's polling place officials are complying with the provisions of the Voting Rights Act.

However, the initial assignment of federal observers to a county today remains dependant on the certification of the county for the assignment of federal examiners even though federal examiners are largely unnecessary any more for listing voter applicants. There has been no federal listing of voters since the 1970s, apart from an isolated flurry of voter listing in Georgia in 1982 and another isolated flurry in Mississippi in 1983. Discriminatory actions against racial and language minority group members are not

caused by their status as federally registered voters. And examiners no longer receive complaints on election day with respect to federally listed voters. I do not recall any complaints that were received centering on mistreatment of federally listed voters over the last 20 years of my supervision of the federal observer and examiner programs, and few, if any such complaints before that. (Complaints about other matters are made to the examiner, but they routinely involve matters for which the federal observers have been assigned to the county, and are just as easily, and more effectively fielded by the federal observer captain in the county.) Moreover, the enforcement of the Voting Rights Act and the enactment of new easy voter registration laws, such as the National Voter Registration Act (the motor voter law), have made the possibility of future listings by federal examiners highly unlikely.

Further, the Office of Personnel Management must continue to keep the lists of federally listed voters up to date regarding changes of name, changes of address and, as the years have gone by, of deaths. Those voters cannot be removed from the voter rolls without the approval of the Office of Personnel Management, and the lists continued to be provided for election day use by those counties where there are federally listed voters. In fact, these lists are no longer used for any practical purpose, and their maintenance should be discontinued.

It is possible that federal examiners may be needed in the future for voter listing in a situation where the dictates of the Voting Rights Act are met, so the Voting Rights Act's authorization for federal examiners to conduct listing activity should be retained. But there is no reason to continue to tie the assignment of federal observers to the appointment of a federal examiner. I believe that, apart from the possible need for listing voters, the federal examiner provisions are outdated and are no longer needed in the Voting Rights Act, especially the requirement that an examiner be appointed as a prerequisite for the assignment of federal observers to a county.

But the procedure for the certification of a county for federal examiners under Section 6 of the Act serves an important purpose: it requires the Justice Department to conduct an intensive investigation to support the certification, and thus makes the federal government responsible for taking action regarding local election procedures only on the basis of complete and compelling facts. I believe that some manner of certification should remain a prerequisite for the initial assignment of federal observers to a county and, once certified, that a county would remain certified, as is now the case, until it acted to eliminate the certification (the formula under Section 13 for terminating certification would be changed).

If such a new certification procedure would be instituted, the requirement that the United States Attorney General personally must sign the certification, as is now the case, would be unnecessary. This authority for executing a certification should be allowed to be delegated to the Assistant Attorney General for Civil Rights. To my recollection, the Attorney General has signed every certification that has been recommended by the Assistant Attorney General for Civil Rights. Nor would the Attorney General's signature be needed any more to assure the importance of the certification if the only consequence

of a certification would be simply to allow federal observers to witness polling place procedures. The delegation to the Assistant Attorney General for Civil Rights of the responsibility for a certifying a county for the presence of federal observers would be similar to the delegation of authority to the Assistant Attorney General to object to changes in voting practices and procedures under Section 5 of the Voting Rights Act.

The purpose of the present requirement in the Voting Rights Act that the Attorney General's certification of a county be published in the Federal Register is to give notice of the location of the federal examiner's office. Since it no longer will be necessary to have an office for a federal examiner when federal observers are assigned, the publication of the location of that office also will be unnecessary. Those who will most need to know of the assignment of federal observers—county officials and minority group representatives—always are informed personally by Civil Rights Division attorneys, and other members of the community easily learn of the observers' presence from Division attorneys, local press reporting and word of mouth.

Accordingly, I believe that the federal observer provision is still necessary to the enforcement of the Voting Rights Act, but the Voting Rights Act no longer should tie the assignment of federal observers to the appointment of a federal examiner. The Act should allow a certification function, newly directed only to the assignment of federal observers, to be delegated to the Assistant Attorney General for Civil Rights. The requirement for publication of the certification in the Federal Register—an adjunct of the federal examiner function—should be eliminated as a prerequisite to the initial assignment of federal observers.

Federal observers' work should continue to be a law enforcement function.

I also recommend that the function of the federal observers remain as it is: as witnesses in a law enforcement function. The question arises because, since my retirement, I have been an observer four times in other countries as a part of an international observer corps assembled by the Organization for Security and Cooperation in Europe (OSCE) under its Office for Democratic Institutions and Human Rights (ODIHR). The forms these observers use list polling place procedures and have a place for the observer's rating from good to bad (1 to 3, or 1 to 5) for each procedure. There are separate forms for the opening of the polls, for voting during the day, and for the closing of the polls. A fourth form allows for fuller explanation of any item or event.

The object of the observation by ODIHR is to report information for public consumption as quickly as possible. During election day the observers send their forms to ODIHR headquarters in the country's capitol at mid-morning, shortly after noon, and just before the polls close; the remaining forms are dropped off when the observers return from the vote count to their regional lodging sites throughout the country. This way, by the afternoon of election day OSCE/ODHIR knows how the election is going, whether there are serious problems, and if so, what they are and where they are. Then, on the morning after the election, OSCE issues its judgment on whether the election was conducted according to international standards or was marred by irregularities.

But OSCE is not a law enforcement organization, and its approach would not be appropriate to the job of the Justice Department. Some of the irregularities that the federal observers can witness are not dissimilar from the kind of procedural irregularities that are common to elections held in emerging democracies. The extra identification steps required of Arab Americans in Hamtramck, Michigan, and the harassment they encountered, described below, are an example. But the similarity of some situations to those addressed by international observer groups such as the OSCE does not argue for redesigning the federal observer program under the Voting Rights Act to resemble those organizations' efforts.

In fact, the federal observer program is an effective law enforcement program as it is now constituted. If observers are desired to watch polling place activities for other purposes, those functions should be performed by other observers serving other functions. "Domestic" observers in other countries are allowed into the polling places to get information for their candidates, or political parties, or organizations, and routinely publicize the activities they witness. Those countries' elections, however, are conducted centrally, by a central (in the U.S. it would be a federal) election commission, and the observers' activities are under that central control. The laws of those countries specifically allow domestic as well as international observers into the polling places. The observers are granted permission to be in the polls and are issued identification tags for that purpose by the central or district election commissions, which can withdraw that permission at any time.

This kind of observation is not a matter within the purview of existing federal legislation in this country, and to have federal legislation allowing these kinds of observers in polling places a record would have to be established by the United States Congress justifying their presence in connection with federal elections. On the other hand, in the United States access to the polling places is controlled by state law, and some states allow such observers into the polling places now. States routinely also allow the press into the polls to witness the activities there. Finally, redacted versions of the federal observers' report forms may be obtained under the Freedom of Information Act (FOIA) subject to the FOIA rules and the Privacy Act.

The following analysis provides the specific support for my conclusion that the federal observer provision of the Voting Rights Act should be continued because it is clearly needed to provide the Justice Department with evidence of violations of the Voting Rights Act's prohibitions against discrimination in the polling places against racial and language minority group members. This analysis is taken from an article my wife and I wrote for the Temple Political and Civil Rights Law Review, Spring 2002 edition, Vol. 2, Number 11.

The special provisions of the Voting Rights Act were compelled by resistance to African Americans' voting rights.

Congress had found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims.

South Carolina v. Katzenbach, supra at 328.

The Voting Rights Act (the "Act") cut through the protective barrier of federalism with two important sections. Section 5 of the Act, 42 U.S.C. § 1973c (the "preclearance" provision), required federal review of any new voting procedures that states and counties might adopt. This prohibited the adoption of new discriminatory practices when a jurisdiction's present practices were found to be unlawful. And Section 4 of the Act, 42 U.S.C. § 1973b, instantly led to the enfranchisement of thousands of people by suspending the use of literacy tests and similar discriminatorily applied barriers to the registration of African Americans in the Deep South.¹ Some states, such as Virginia, immediately stopped using literacy tests. In other Southern states, federal examiners were appointed under Section 6 of the Act, 42 U.S.C. § 1973d, assigned to counties to conduct fair voter registration under Section 7 of the Act, 42 U.S.C. § 1973e, when white county officials refused to stop their racially discriminatory voter registration practices.² This was no small task, as over 170,000 people were registered between 1965 and 1972 through the efforts of the federal examiners, mostly in Alabama, Georgia, Louisiana, and Mississippi. *Semiannual Report of Cumulative Totals on Voting Rights Examining as of*

¹ These "tests or devices" were suspended in states and counties determined by a formula in Section 4 of the Voting Rights Act, 42 U.S.C. § 1973b, based on the use of literacy tests and other pre-application devices (such as having current voters vouch for your good moral character), and low voter turnout. Later, this provision was made permanent and nationwide. 42 U.S.C. § 1973aa. Originally, states and counties covered under the formula in Section 4 of the Act could terminate their special coverage ("bail out") after five years by showing in a lawsuit before a three-judge court in the federal district court for the District of Columbia, that no test or device had been used to deprive anyone of the right to vote during that period. Since the Act itself suspended those tests or devices for only 5 years, it was thought that it would be relatively simple for states and counties who complied with the suspension to bail out after the 5-year period. In 1970 the time period in Section 4 was extended to 10 years, in 1975 it was extended to 17 years. In 1982 the approach was changed, and the special coverage under Section 4 will expire 25 years after August 5, 1984, the effective date of the 1982 Amendments, 42 U.S.C. § 1973b(a)(8). In 1982 the bail-out provisions were amended substantially to allow individual counties within a fully covered state to bail out, and to set out a number of specific qualifications that a jurisdiction needs to meet in order to bail out. 42 U.S.C. § 1973b(a)(1)-(3).

² The examiners are commonly referred to as federal registrars. These were people appointed by the head of the Civil Service Commission, now the Office of Personnel Management, to examine voter applicants as to their qualifications under state law. If the applicants satisfied the state requirements, their names were put on a list that was given to the county registrar, who then had to add them to the county voter registration rolls. In this way, some semblance of state authority over the voter registration process was preserved: registrars satisfied state requirements, and a state-authorized official put the voters' names on the rolls. 42 U.S.C. § 1973e(b). To safeguard against discriminatory purges of those newly enfranchised voters, their names cannot be purged from the voter rolls without the approval of the Office of Personnel Management. 42 U.S.C. § 1973e(d).

December 31, 2000, Prepared by the Office of Workforce Information, Office of Merit Systems Oversight and Effectiveness, U.S. Office of Personnel Management. See Appendix A for the number of people, by state, registered by federal examiners.

Further, in order to allow the U.S. Attorney General to know whether discriminatory action was taken against the newly enfranchised voters in the polling places on election day, Section 8 of the Act allowed that, whenever an examiner has been appointed,

[T]he Director of Personnel Management may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election...for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election...for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated.

42 U.S.C. § 1973f.

Thus, the use of federal observers in polling places initially was directed at protecting the rights of new voters who had been registered by federal examiners. Even though federal voter registration was rare after 1972, the predicate under the Voting Rights Act for assigning federal observers has not changed: federal observers continued to be allowed only in counties that had been certified by the U.S. Attorney General for federal examiners. As a result, to allow the assignment of federal observers to a county, the county had to be certified by the U.S. Attorney General or a federal court (under Section 3(c) of the Act, 42 U.S.C. § 1973a(c)) for federal examiners.³ The assignment of federal observers continues to be a cornerstone of the enforcement of the Voting Rights Act. Over 23,000 federal observers have been assigned to monitor polling place procedures since 1966, 4,393 since 1990 alone.⁴ See Appendix B, Assignment of Federal Observers Under Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f, by Year and State.

³ Since the federal examiner and federal observer provisions of the Voting Rights Act focus on political subdivisions, which ordinarily are counties, a county must be certified for federal examiners even if the object is to assign federal observers to monitor polling places during a city or other election, such as a school board election, within the county. See 42 U.S.C. §§ 1973d, 1(c)(2).

⁴ There were 4,698 federal observers assigned to polling places in 5 states from 1966 through 1969; 7,034 federal observers were assigned to 9 states in the 1970s; 6,598 federal observers were assigned to 11 states in the 1980s, and 3,753 federal observers were assigned to 13 states in the 1990s. In 2000, 640 federal observers were assigned to 11 states. See, Appendix B.

Federal observers witnessed clear racial discrimination at the polls.

Federal observers were able to note and document a wide variety of discriminatory actions that were taken against African Americans in the polls. Some of these actions were insulting and direct, as are reflected in the United States' responses to interrogatories in *United States v. Conecuh County, Alabama*, Civil Action No. 83-1201-H (S.D. Ala., Jun 12, 1984).⁵ See Appendix C.

While providing assistance to a black voter, white poll official Albrecht asked, "Do you want to vote for white or niggers?" The voter stated that he wanted to give everyone a fair chance. Albrecht proceeded to point out the black candidates and, with respect to one white candidate, stated, "This is who the blacks are voting for." Poll official Albrecht made further reference to black citizens as "niggers" in the presence of federal observers, including a statement that "niggers don't have principle enough to vote and they shouldn't be allowed. The government lets them do anything."

Plaintiff's Response to Interrogatories and Request for Production of Documents, p. 6.

White poll workers treated African American voters very differently from the respectful, helpful way in which they treated white voters. When questions arose about the voter registration data for a white person, such as a person's address or date of registration, or when a white person's name was not immediately found on the poll books, the voter was addressed as Mister or Misses, was treated with respect, and the matter was resolved on the spot. If the voter's name was not found, often he or she either was allowed to vote anyway, with his or her name added to the poll book, or the person was allowed to vote a provisional or challenged ballot, which would be counted later if the person were found to be properly registered. If, however, the voter was black, the voter was addressed by his or her first name and either was sent away from the polls without voting, or told to stand aside until the white people in line had voted. African American voters were not allowed to take sample ballots into the polls, and were made to vote without those aids (it was claimed by white officials that the sample ballots were campaign material which was prohibited inside the polls).

African American voters who were unable to read and write, due in large part to inferior segregated schools and the need to go to work in the fields at an early age, were refused their request to have someone help them mark their ballot, notwithstanding the Voting Rights Act's bar on literacy tests. In some instances, white poll workers would loudly announce the African American voter's inability to read or write, embarrassing the

⁵ The federal observers' reports are not public documents, so there are very few examples on the public record of the facts that the observers have witnessed. One such public document is the Plaintiff's Response to Interrogatories and Request for Production of Documents in *United States v. Conecuh County, Alabama*, supra. Some of the specific examples of the kind of discriminatory treatment that was afforded African American voters described in the text that follows are taken from the excerpts of the *Conecuh County* responses at Appendix C, while others are based on the author's first-hand knowledge.

voter in front of his or her neighbors. Some white poll workers went so far as to bring a magnifying glass to the polls, and give it to African American voters, challenging the voter to read using the magnifying glass in front of everyone present at the polling place. Illiterate white voters, on the other hand, were allowed assistance by a person of their choice without comment. White couples routinely were allowed to enter the voting booth together to mark their ballots.

In instances where African American voters were allowed an assistor in the booth, arbitrary rules were concocted that limited the number of voters an assistor could help, or made the assistor wait outside the polling place, requiring the voter to enter the polls alone and negotiate alone the sign-in procedures administered by unfriendly white poll workers, before being allowed to ask that the assistor be allowed to help.⁶ All too often, when the voter said he or she needed assistance the white poll worker would proceed to help the voter, and not give the voter a chance to ask for the assistor the voter wanted; the voter did not know if the poll worker cast the ballot as the voter desired, and had no confidence that the ballot was cast correctly.

Moreover, racial discrimination in the polls is not limited to African Americans, and is not limited to the South. On November 2, 1999, in the City of Hamtramck, Michigan, the qualifications of more than 40 voters were challenged on grounds that they were not citizens. They were challenged by members of a group known as Citizens for a Better Hamtramck (CCBH), organized to keep elections pure. As described in the Consent Order and Decree in *United States v. City of Hamtramck*, Civil Action No. 00-73541 (E.D. Mich, Aug 7, 2000),

6. ... Some voters were challenged before they signed their applications to vote. Other voters were challenged after they had signed their applications and their names had been announced. The challenged voters had dark skin and distinctly Arabic names, such as Mohamed, Ahmed, and Ali. The challengers did not appear to possess or consult any papers or lists to determine whom to challenge.

7. Once challenged, the city election inspectors required the challenged voters to swear that they were American citizens before permitting them to vote. Voters who were not challenged were not required to do so. The city election inspectors did not evaluate the propriety of merit of the challenges. Some dark-skinned voters produced their American passports to identify themselves to election officials. Nevertheless, these persons were challenged by CCBH, and the election inspectors required them to take a citizenship oath as a prerequisite to

⁶ After the Voting Rights Act enabled African Americans in the Deep South to register to vote, it became common for civil rights workers and local African American residents to drive the new voters to the polls and to give assistance to those who needed it. This was a natural outgrowth of the organizing required during the civil rights movement to achieve voter registration for black people. It provided transportation—many people did not have cars—and gave confidence and protection to these newly enfranchised voters at the polling places from which they had so recently been excluded by white poll workers and voters who did not want them there. This tradition of “hauling” voters to the polls and giving assistance to voters who need it continues today, especially in many rural areas.

voting. No white voters were challenged for citizenship. No white voters were required to take a citizenship oath prior to voting.

at p. 4.

The consent decree also states that city officials were apprised of the incidents, that they consulted with state election officials who were present in Hamtramck on election day, but neither the state nor the city election officials prevented the baseless challenges from continuing. It was claimed that other Arab-American citizens may have heard about the incidents and decided not to go to the polls to vote that day.

Federal observers witnessed clear discrimination against language minority group members at the polls.

Besides discriminatory treatment of citizens based on race, citizens who speak English poorly, or not at all, have faced obstacles to voter registration and voting. In 1975 Congress took note of discrimination against people who have only a limited ability to speak English. For them, printing or providing information only in English as effective as a literacy test in keeping them from registering to vote or casting an effective ballot. Such disenfranchisement was outlawed when the Voting Rights Act was amended and expanded in 1975. The terms of Section 4 of the Act, containing the formula for applying special coverage to counties, were changed to include among prohibited tests and devices,

[T]he practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance or other material or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority.

42 U.S.C. § 1973b(f)(3). Language minorities are defined in the Voting Rights Act as American Indian, Asian American, Alaskan Natives, and people of Spanish heritage. 42 U.S.C. § 19731(c)(3). Political subdivisions as defined in the Act usually are counties. 42 U.S.C. § 19731(c)(2).⁷

The 1975 amendments to the Act required that when the newly covered jurisdiction

... provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language...

⁷ The jurisdictions subject to the special provisions of the Voting Rights Act are listed in the Appendix to 28 U.S.C. Part 51.

012345

42 U.S.C. § 1973b(f)(4)⁸

Counties in Arizona, New Mexico and Utah were certified for federal examiners, and federal observers were assigned to document the extent to which the English language was used in areas where many of the voters spoke Native American languages but understood English only marginally. Similarly, federal observers have been assigned to polling places in Spanish language areas of Arizona, Texas, New Jersey and New York City, and Chinese language areas of New York City, and San Francisco and Oakland, California.⁹ In all these areas minority language citizens were allowed to register to vote, but the use of the English language instead of the voters' first language prevented them from understanding the voting instructions and the ballot. Polling place workers either were not able to speak the language of the voters, or if they could, were not trained to translate the documents and procedures into the language of the voters. By the 1990s federal observers were assigned to monitor discrimination against language minority group members in numbers equal to the federal observers assigned to monitor non-language racial discrimination.¹⁰

The need for the language minority provisions of the Voting Right Act continues to be demonstrated in areas of the country where English is not persons' primary language. Normally one would assume that polling place workers would be chosen from the population where the polling place is located, and that they would speak another language in addition to English with the same frequency as the voters. In many instances, however, this did not happen. For example, in ethnically changing neighborhoods in New York City, the choices of the political party apparatus resulted in the repeated appointment of English-speaking poll workers where a large portion of the new voters in a precinct were Spanish-speaking Puerto Ricans. In Passaic, New Jersey, English-speaking poll workers were unable to find the names of Spanish-speaking voters

⁸ A parallel requirement was added in Section 203 of the Voting Rights Act in 1975 for counties determined by different formula. 42 U.S.C. § 1973aa-1a. Section 203 of the Act does not include the other special provisions of Section 4, such as the preclearance, federal examiner and federal observer provisions. Lawsuits under Section 203 must be brought before a three-judge court. As a result of amendments since 1975, coverage under Section 203 now applies to counties that have more than 5 percent of voting age citizens who are members of a single language minority and are limited-English proficient; have more than 10,000 voting age citizens who are members of a single language minority and are limited-English proficient; or have a part of an Indian reservation, and more than 5 percent of the American Indian or Alaska Native voting age citizens are members of a single language minority and are limited-English proficient; and the illiteracy rate of the language minority group citizens is higher than the national illiteracy rate. 42 U.S.C. § 1973aa-1(a)(2). The counties covered under the language minority provisions of Sections 4 and 203 are listed in the Appendix to 28 U.S.C. Part 55.

⁹ Counties in Arizona, New York and Texas were certified by the U.S. Attorney General. Counties in California, New Mexico and Utah were certified by federal district courts under Section 3(c) of the Act, 42 U.S.C. § 1973a(c). Section 3(c) provides for certification in a lawsuit brought "under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment... (1) as part of any interlocutory order... or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred..."

¹⁰ From 1990 through 2000, there were 2,449 federal observers assigned to elections in the states of the Deep South, very few of which involved discrimination against language minority group members, and there were 2,215 federal observers assigned to monitor elections in other areas of the country, most of which involved discrimination against language minority group members. See Appendix B.

in the polls books because the poll workers did not know that the voters' family name traditionally was the second of three names they used. Some voters were denied the ballot because they identified their street name according to common Spanish usage rather than the formal English name.¹¹ In Texas and Southern Arizona polling places Hispanic voters were admonished not to use Spanish when talking in the polling places and when giving assistance to voters who needed help when voting. Moreover, the citizenship of Hispanic voters was questioned at the polls, with voters being required to somehow provide on-the-spot evidence of their citizenship before being given a ballot; such evidence was not required of Anglo voters.¹²

Evidence of other kinds of discriminatory behavior of polling place workers and others toward Spanish language voters inside the polls is provided in the reports of the Independent Elections Monitor appointed in September 2000 by the court in a consent decree in *United States v. Passaic City, New Jersey, and Passaic County, New Jersey*, Civil Action No. 99-2544 (NHP) (D.N.J., Sep. 5, 2000)(three-judge court).

At P.S. 6, observers called to report that the challenger was making racist remarks about Hispanics. At the Ukrainian school, challengers became very aggressive and were yelling at voters, stating that they did not live in the country and should not vote. Ironically, many of these challenged voters were off-duty Passaic City police officers. Angel Casabona, Jr. was one such challenged police officer who avoided confrontation and properly came to Passaic City Hall to have his voting status clarified. Escorted by the City Clerk and investigators from the prosecutor's office, Mr. Casabona reentered the polling site and was permitted to exercise his vote. The brazen challenger was reprimanded and board workers were reminded that challengers should not be interacting with voters.

Walter F. Timpone, Office of the Election Monitor, Fifth Report, June 15, 2001, pgs. 3-4.

The most disturbing incident of the [June 26, 2001 municipal primary election] occurred at the polling place at St. Mary's School in Passaic. Someone allegedly stole the flag from outside the polling place. The police were called. An officer responded and caught the purported perpetrator. The Officer entered the polling place and asked who had called the police. No one responded. The officer barked comments in substance to the poll workers as follows, "Can't you read? What country do you come from?" When a municipal worker of Indian origin came to see what the problem was, the officer then asked, "And what country do you come from?" When a Latino federal observer tried to explain the

¹¹ Mail addressed to streets using the Spanish nickname was delivered because the postal personnel were familiar with the local Spanish language usages, as the poll workers were not.

¹² Anglo candidates compiled lists of Hispanic voters' names for their poll watchers to challenge at the polls on the ground that the voters were not citizens. United States citizenship is required by every state as a qualification to register to vote in state and federal elections. But in order to avoid discriminatory treatment of voters at the polls and disrupting the polling places with election-day challenges, persons who, before an election, have evidence that a registered voter is not a U.S. citizen should be required to present that information to the voter registrar, and to desist from interposing challenges at the polls to voters whose qualifications have been upheld by the registrar.

dictates of the consent decree, the officer asked for credentials. When the observer showed his credentials, the officer found them inadequate because they lacked a picture and detained the observer. The Officer told the observer, "I could arrest you for this." Upon being alerted to the controversy, I asked investigators from the Passaic County Prosecutors Office and Deputy Chief of the Passaic County Police Department to intercede. When a Sergeant from the Passaic Police department responded at the scene and learned what had happened, he apologized to the federal observer and told him he thought some sensitivity training might be in order for the officer. Notably, this discriminatory behavior took place in a city where the Latino population is at 62%. Intolerance in the city is still existent and hiding under color of official right.

Walter F. Timpone, Office of the Election Monitor, Sixth Report, July 27, 2001, pp. 6-7.

The use of English rather than Chinese in polling places in Chinese neighborhoods of San Francisco and Oakland (Alameda County), California, and New York City left voters confused about procedures, and ignorant of ballot propositions and contested offices. As was noted in the Settlement Agreement and Order in *United States v. Alameda County, California*, C95 1266 (N.D. Cal, Jan 22, 1996)(three-judge court),

According to the 1990 Census, the population of Alameda County includes 68,184 Chinese Americans and 30,120 Chinese American citizens of voting age. The 1990 Census reports that 11,394 persons, or 37.83 percent of the Chinese citizen voting age population in Alameda County, and 1.3 percent of the total citizen voting age population in Alameda County do not speak English well enough to participate effectively in English language elections. Thus, over 11,000 Chinese American citizens in Alameda County cannot function effectively in the electoral process except in the Chinese language.

at p. 4.

Problems were compounded in Native American areas of Arizona, New Mexico and Utah. The problems faced by Native Americans in these areas are illustrated in Cibola County, New Mexico, which contains the Ramah Chapter of the Navajo Reservation and the Acoma and Laguna Pueblos. The Stipulation and Order in *United States v. Cibola County, New Mexico*, No. Civ 93 1134 LH/LFG, (D.N.M., Apr 21, 1994)(three-judge court), states that,

5. According to the 1990 Census, 57.8 percent of the Navajo voting age population and 18.1 percent of the Pueblo voting age population in Cibola County do not speak English well enough to participate effectively in English language elections. Thus, a significant proportion of the Native American population of Cibola County, and a significant majority of Navajos, cannot function in the electoral process except in the Navajo or Keresan languages.

6. The Navajo and Keres populations of Cibola County live in circumstances of significant isolation from the non-Native American population of the county. Cibola County is unusually large in physical terms, and covers a geographic area roughly the size of the State of Connecticut. Over four-fifths of the non-Native American population lives clustered within or near the adjacent incorporated communities of Grants and Milan, close to the county courthouse. The Acoma and Laguna population centers are between 25 and 50 miles away from Grants, the county seat, while the Ramah Chapter House is approximately 50 miles from Grants. The isolation of the Native American population of Cibola County burdens their access to the franchise.

8. Native American citizens living within Cibola County, suffer from a history of discrimination touching their right to register, to vote, and otherwise to participate in the political process. Until 1948, Native American citizens of New Mexico were not permitted to vote in state and local elections. *Trujillo v. Garley*, C.A. No. 1350 (D.N.M., August 11, 1948). In 1984, the court in *Sanchez v. King*, C.A. No. 82-0067-M (D.N.M. 1984) held that the New Mexico state legislative redistricting plan discriminated against Native Americans.

9. The level of political participation by Native American citizens of Cibola County is depressed. Voter registration rates in the predominantly Native American precincts have been less than half the rate in non-Native American precincts, and Native Americans are affected disproportionately by voter purge procedures. Although Native Americans comprise over 38 percent of the county population, fewer than eight percent of all absentee ballots have been from the predominantly Native American precincts. There is a need for election information in the Navajo and Keresan languages, and a need for publicity concerning all phases of the election process for voters in Ramah, Acoma and Laguna. The rate of participation by Native Americans on such issues is less than one third of the participation rate among non-Native Americans. There is a need for polling places staffed with trained translators conveniently situated for the Native American population.

at pages 5-7.

The remedy for this unlawful disparity is complicated by the facts that (1) the Navajo and Pueblo languages are oral, not written, and (2) there are no equivalent terms in the Navajo and Pueblo languages for many words and phrases in the election process.

Native American polling place workers in reservation precincts faced a more difficult task than white poll workers in getting to the training session for poll workers that were held many miles away in county seats where most white people lived. At the training sessions Native American poll workers were given little or no instruction about how to translate ballots and propositions, and many of their attempts to do so on election day resulted in the most rudimentary references. For example, poll workers assisting voters at the polls would refer to the office of secretary of state as someone who works in

the state capitol, and bond levies for education were said simply to be increases in taxes. Many times the Native American poll workers found it so difficult to figure out how to explain items on the ballot they just instructed the voters to skip the offices or propositions. Moreover, Native American voters who had been purged from the voter rolls because they failed to respond to written notices they either did not receive¹³ or did not understand, were turned away from the polls with no explanation of why they were not able to vote, and were given no opportunity to re-register there.¹⁴

Pre-election investigation can pinpoint where federal observers should be assigned.

The task of assuring compliance by polling place workers with appropriate polling place procedures requires (1) knowledge of what is happening in the polling places, and (2) the authority to correct actions that are in violation of the prescribed procedures. For over 35 years DOJ has been determining, before each election, what will happen in specific polling places in particular counties in states far from Washington, D.C. Based on this information DOJ determined at which polling places discriminatory activity would take place, and the exact number of federal observers needed at each particular polling place, from among the hundreds of counties in the 16 states that are fully or partially covered under Section 4 of the Voting Rights Act,¹⁵ and the 10 additional jurisdictions in other states that have been and remain certified by courts under Section 3 of the Act.¹⁶

This DOJ effort, known as a pre-election survey, is conducted by the Voting Section of DOJ's Civil Rights Division. Pre-election surveys began right after the Voting Rights Act was enacted, as a tool for determining where and how many federal observers would need to be assigned under Section 8 of the Voting Rights Act. Through the years

¹³ Residences on the Navajo reservation often are miles apart, with no paved roads, and many homes have no telephones. It is not unusual for reservation residents to pick up their mail periodically at a store or other place far from their homes.

¹⁴ Voters were confused because they voted in tribal elections without problem, and were not told, for example, that under state law they had been purged from the county voter rolls because they did not vote with some particular frequency and in particular elections, such as every two or four years in general elections. To add to the confusion, in many areas the tribal elections and the state elections were held on different dates but at the same locations. Prior to the National Voter Registration Act, 42 U.S.C. § 1973gg et seq., voter registration in many counties in Indian country was conducted in the county seat, far from reservation housing, until, in some instances, litigation required that deputy registrars be made available at reservation sites, and that voter purge procedures be modified to allow fair notice to Native American voters. *United States v. State of Arizona*, CIV 88-1989 PHX EHC (D. Ariz., May 22, 1989), pgs. 6-11; First Amended Consent Decree, Jan. 3, 1994, pgs. 5-10.

¹⁵ Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina and Texas are fully covered under the Voting Rights Act's special provisions by the formula in Section 4 of the Act, 42 U.S.C. § 1973b. One or more counties are specially covered under Section 4 in California, Florida, Michigan, New Hampshire, New York, North Carolina, South Dakota and Virginia. All jurisdictions covered under Section 4 of the Act are listed in the Appendix to 28 CFR Part 55.

¹⁶ Certification under Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973b(a), is for a particular term as defined by the court. Certification by the U.S. Attorney General under Section 6 of the Voting Rights Act, 42 U.S.C. § 1973f, is for an unlimited time. Jurisdictions certified under Section 6 can seek to have their certification terminated under Section 13 of the Voting Rights Act, 42 U.S.C. § 1973k. Appendix D is a list of the jurisdictions that have been certified for examiners by court order under Section 3(a) of the Act.

the pre-election surveys have remained relatively unchanged for determining where racially discriminatory actions (as contrasted with language-based difficulties) would occur in the polling places of the Deep South. This process is instructive on a broad level because it can be used, with variations, by states throughout the country to determine, prior to election day, where problems will occur on election day in polling places across the state.

The DOJ focus during the pre-election surveys is to find circumstances that are likely to lead to actions that will disadvantage voters in the polls on election day. To allow black voters to vote without interference in the South, the Voting Section focuses on counties where black candidates are facing white candidates. Those are the circumstances where experience has shown that polling place workers are more apt to take actions that deprive African American of their right to vote. Moreover, the inclination of polling place workers to take discriminatory action against African American voters is more likely when the black candidates have a real chance of beating white opponents. (For concerns about other kinds of problems at the polls, the pre-election survey would focus on the facts and antipathies relating to those problems.)

The surveys consist of two rounds of telephone calls and a field investigation. The first round of phone calls begins about six weeks before the election, which is a time when candidate qualifying has been completed and campaigning has been in progress. The Voting Section contacts the election director in each county where the minority population is about 20% or more, since a relatively small but concentrated portion of a county's population can be a significant proportion of a single election district in a county. The Voting Section determines a number of facts from each county election official they contact, including the name and race of the candidates, the office each is contesting, which candidates are incumbents, the county's procedures for appointing polling place workers, and the county's procedures for responding to problems that arise on election day. The second round of telephone calls is made to at least two African American people in each county who are familiar with the way elections have been conducted in the county during recent elections, who know who the candidates are and how the candidates have been conducting their campaigns, and who are knowledgeable about relationships between the races in the county and whether there have been any recent racial incidents in the county.

Voting Section attorneys then travel to the counties where the facts from the two rounds of telephone calls indicate that the assignment of federal observers is needed because poll workers will make it difficult for black voters to cast their ballots for the candidates of their choice. The attorneys interview the county election officials, the county sheriff (or chief of police, if a city election is in issue), African American county residents, including people associated with community and civil rights organizations, and candidates. The attorneys relay their information and their recommendation as to whether federal observers should be assigned for the election, and, if so, number and placement of federal observers that will be needed on election day, to a Voting Section

supervisor who coordinates the survey.¹⁷ The polling places that are selected for the assignment of observers are (1) those at which the facts show that African American voters are likely to be victimized on election day, where (2) the county has no effective way to either know what is happening in the polls, or for responding to problems that occur at the polls, or both.

During the pre-election surveys the Voting Section supervising attorney talks frequently with the Voting Rights Coordinator at the Office of Personnel Management (OPM) who recruits and supervises the people who serve as observers.¹⁸ Thus, OPM is aware of the identity of the counties that are the subject of field investigations, and of the recommendations of the attorneys for the assignment, numbers and poll location of federal observers. Because of the ongoing coordination between the Voting Section and OPM, the federal observers are chosen and are ready to depart for their assigned location the moment a final decision is made by the Assistant Attorney General for Civil Rights as to the numbers and placement of the observers.¹⁹

Information from federal observers is obtained quickly and effectively on election day.

The pre-election process not only gives DOJ information it needs to determine where and how many federal observers will be needed on election day, it puts DOJ lawyers in contact with county election officials before the election, and the DOJ lawyers inform the county officials of the problems that DOJ has found out may occur in the county's polls on election day. This contact continues during the election, as the DOJ lawyers provide the county election officials with information the lawyers get from the observers.

¹⁷ The Voting Section is headed by a chief and four deputy chiefs. There also are special counsels who are senior attorneys assigned to perform particular duties. The pre-election work for a particular jurisdiction is overseen by a deputy chief if the jurisdiction is a defendant in recent litigation. Otherwise, the pre-election supervision is handled by the special litigation counsel for elections.

¹⁸ Federal observers are assigned and supervised by the Office of Personnel Management. See 42 U.S.C. § 1973f. OPM centralized the observer program in the OPM office in Atlanta, Georgia, over the past several years. Beginning in 2002 the program will be centralized in the OPM office in Denver, Colorado.

There is no standing group of people who are federal observers. Rather, the people chosen to serve as federal observers at a particular election are volunteers, usually from among the OPM nationwide staff except when special abilities are required, such as Native American language ability. General training sessions are held for observers and observer supervisors at selected sites during the year. Often people will volunteer to serve as observers in election after election, but they are not always available because of the demands of their regular work assignments and prior obligations. Because of the need to recruit observers for each election, and the logistical requirements of transportation (airplane tickets, rental car) and lodging, the OPM coordinator and the Voting Section supervising attorney are in contact throughout the year to discuss observer needs in upcoming elections.

¹⁹ If a county for which federal observers is recommended has not been certified yet for federal examiners, a separate recommendation for certification of the county is made to the U.S. Attorney General, and a certification form is prepared for the U.S. Attorney General's signature. Also, because certifications are effective upon publication in the Federal Register, 42 U.S.C. § 1973b(b), arrangements are made for publication as soon as possible after the U.S. Attorney General signs the certification. Similar arrangements are made by OPM which must publish in the Federal Register a location for an examiner's office. 42 U.S.C. § 1973e(a).

The observers are briefed by DOJ attorneys and the observer captain on the day before the election. The observers get to their assigned polling place one-half hour before the poll opens, and usually will remain until the last person leaves the poll. They have pre-printed forms on which to record the activity in the polls. Observers usually also attend the ballot count and record the number of votes received by each candidate.

During election day an observer supervisor makes repeated visits to the polling places where federal observers are stationed, and remains in constant telephone contact with the DOJ attorney who is in the county. This gives the DOJ attorney in the county a constant flow of information throughout the day about activities that transpire inside the polls.²⁰ When the federal observers inform the DOJ attorney of actions of polling place officials that the attorney concludes are interfering with the voting rights of African Americans, the DOJ attorney gives the facts to the local official in charge of the election, which allows him or her to stop the discriminatory activity. Local officials also can use this information after the election to take steps to prevent the incidents from happening again.

Similar steps are taken on election day when federal observers are used to determine compliance with the language minority provisions of the Voting Rights Act, but normally the pre-election preparation is different. The inability or lack of desire of poll workers to provide information to non-English speaking voters usually does not depend on the identity of the candidates or the issues involved in a particular election. Thus, the information obtained in one election will allow a determination of whether federal observers will be needed in the next election.²¹

The reports of these federal observers have their primary emphasis on the language aspects of polling place procedures and the actions of polling place workers. (The federal observers assigned to a particular polling place speak the minority language that is used by the voters at that polling place.) It usually is not important that the observers arrive at the opening of the polls, nor that they stay all day, since the goal is to have the observers attend the polls for a sufficient length of time to witness a number of minority language voters go through the voting process. This will give the observers sufficient facts to allow the DOJ attorneys to analyze the county's compliance with the law.

We should emphasize that the federal observers do not interfere with the election process. Their limited function, to pass along information to their OPM supervisors and

²⁰ In addition, the DOJ attorney in each county calls the supervising attorney often during the day: when the polls open, and every hour after that until it is clear that correct procedures are being followed at the polls in that county, unless continuing problems and their resolution make it necessary to continue frequent contact. This coordination between the supervising attorney and the attorney in the field begins on the day before the election, and does not end until the attorney leaves the county to return to Washington, D.C., on the day after the election or later.

²¹ Initial facts indicating possible violations of the Voting Rights Act most often come to DOJ through complaints by telephone, by mail, or in conversation with DOJ attorneys, paralegals and analysts in the performance of their routine duties.

the DOJ attorneys, is in accord with the dictates of Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f. The observers must not give instructions to poll workers, must not give help to voters, and must not share their observations, judgments or opinions with individuals in the polls. They are eyes and ears. They are paid witnesses.²²

The federal observers' reports allow Justice Department attorneys to require counties to comply with their states' rules.

In its enforcement of all federal civil rights laws the Department of Justice (DOJ) attempts to obtain voluntary compliance from prospective defendants. This has been especially true of the enforcement of the Voting Rights Act where the prospective defendants are officials of state and local governments.

From the beginning of DOJ's enforcement of the Voting Rights Act DOJ lawyers personally conducted investigations in each county before examiners or observers were assigned, regularly checked on the progress of examiners while voter registration was conducted, and on election day a DOJ attorney was and continues to be present in each county to which federal observers are assigned to obtain information from the observers during election day, and debrief the observers immediately after the election. During their presence in the counties the DOJ lawyers have continuing contact with county officials, and give them the information the lawyers gain as part of their pre-election investigation in the county, and from the federal observers. Those local officials, faced with the immediate and continuing presence of DOJ lawyers, usually instruct the head worker at the polling place to follow the appropriate procedures.

The federal observers inside the polling place witness the cessation of the discriminatory action, or if the discriminatory action continues, the DOJ lawyer again brings the information from the observers to the attention of the county election official to get further corrective action. Thus, federal observers function both to gather evidence of discriminatory activities in the polling place for future legal action, and for the elimination of discriminatory actions on the spot. At times, the mere presence of federal observers at the polls serves to inhibit the tendency of many polling place workers to take discriminatory action against African American voters.

Court-ordered remedies require counties to do their job in the South.

Some compulsive action is needed when county election administrators do not address outstanding problems in the polls, and do not follow proper election day procedures. A primary reason for the mistreatment of African American voters was and

²² It is of utmost importance that observers stick to their role at the polls, because they are able to be in the polling places only by the authority of Section 8 of the Voting Rights Act, 42 U.S.C. § 1973f. States have laws about who can enter the polls. Usually those individuals include poll workers, voters, voters' assistants, peace officers when called, and candidates' or political parties' poll watchers. Others will be inside the polls in violation of law unless specifically authorized to be there by the appropriate local election official. Moreover, under Section 8 of the Voting Rights Act the federal observers are able to be in the polls only to perform the tasks noted above.

continues to be the failure of local election officials to appoint African Americans as polling place workers. The evidence of mistreatment that this discriminatory policy had on African American voters has provided a firm basis for court orders that required the defendants to take specific steps to recruit and hire African Americans to work in the polls. One good example of this result is the consent decree in *United States v. Conecuh County, Alabama*, supra, which required the defendant political party executive committees (responsible for nominating people to serve as poll workers) to "engage in affirmative recruitment efforts aimed at ensuring that the pool of persons from which nominations are made fully reflects the availability of all qualified persons in Conecuh County who are interested in serving as election officials, without regard to their race or color." at pp. 3-4.

Those recruitment efforts were required to include encouraging candidates to "seek out and propose for nomination black citizens," and "sending notices to local organizations comprised predominantly of black citizens... to advise them that the party intends to nominate persons to serve as election officials and encourage them to have interested persons notify the chairperson of the respective political party executive committee of their willingness to serve as election officials," at p. 4.

A 1993 consent order in *United States v. Johnson County, Georgia*, CV393-45 (S.D. Ga, Sept 14, 1993) stated that,

1. According to the 1990 Census, the total population in Johnson County is 34 percent black and the total voting age population is 29.2 percent black.

* * * * *

7. Of the one hundred thirty one individuals who were employed by Johnson County to serve as poll officials between 1988 and August 1992, eighteen (14%) were black. There were no black poll workers during this period at seven of the twelve polling places.

8. Only eight (12%) of the Sixty-six poll officials employed by Johnson County for the July 21, 1992 primary election were black. There were no black poll workers at eight of the twelve polling places.

9. Of the one hundred and six poll officials employed by Johnson County for the November 3, 1992 general election, only sixteen (15%) were black. There were no black poll workers at six of the twelve polling places.

10. No black person has ever served as a managing poll officer or an assistant managing poll officer at any of the county's polling places.

At pages 2-3.

Included in the *Johnson County* consent decree among the steps the defendant county commission and supervisor of election must take to have African Americans fairly represented among the polling place workers are, "sending written notices to local organizations comprised predominantly of black citizens ... to advise them that the county

intends to appoint black persons to serve as poll workers and poll managers,” and “contacting black candidates and members of the political parties...to ascertain the names, addresses and telephone numbers of black citizens who are qualified and available to serve as poll officers.” *Id.* at 6. In addition, the defendants must publicize in local newspapers, on radio, on television and on posters their policy of conducting elections free of racial discrimination. They also must train the poll workers on how to perform their duties in a racially nondiscriminatory manner, and, with specificity, on how to deal with voters who need assistance.

Even with the specific steps set out in the 15 page *Johnson County* consent decree, the reports of federal observers showed that African American citizens of the Johnson County were continuing to be excluded from among the ranks of those appointed to work at the polls because the supervisor of elections did not adhere to the terms of the decree. After further discussions between the county and DOJ, in lieu of DOJ pursuing contempt of court proceedings the county appointed a biracial committee formed of county residents to perform the preliminary poll worker recruitment and nomination functions previously performed by the election supervisor, leaving her with her statutory duty of formally appointing the poll workers. (This change in practice was reviewed and precleared under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c.) As a result, African Americans were fairly appointed among those who worked at the polls, and discrimination against African American voters at the polls abated in Johnson County, Georgia.

Both the *Conecuh County* and *Johnson County* cases show how information gathered by observers can serve as the evidentiary basis for litigation, how particular individuals at the county level can persist in discriminatory procedures in spite of state law and federal litigation, and how the identity and training of the people working inside the polling places is of primary importance in eliminating injustice from the polls. It should be remembered that in both instances the DOJ lawyers first shared their information with state and local election officials in an attempt to allow those officials to eliminate the discriminatory treatment of voters. These efforts provided the election officials with something they could obtain by themselves, but did not: information about what went wrong in their polls. The need for the resulting litigation demonstrated that those officials were not willing to stop the discriminatory conduct.

Court-ordered remedies require counties to do their jobs for language minorities.

Even after the Voting Rights Act was amended in 1975 to require that areas designated under a formula must provide information and ballots in languages other than English, inadequate training of polling place workers continued to disadvantage minority language voters. The reports of federal observers gave the attorneys from the Department of Justice the information they needed to prove to county officials that violations of the Voting Rights Act had occurred, and to obtain consent decrees that set out specific steps that the counties would take to effectively provide and translate election information to Native American citizens.

Most of the consent decrees to cure discriminatory actions in Indian country under the language minority provisions of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, were lengthy and set out in detail the procedures that election officials had to follow for voter education, voter registration, translation and balloting.²³ It is significant that the great majority of the provisions in the consent decrees focused on the counties' administrative responsibilities, including hiring additional county personnel, to try to give Native American voters equivalent access to information about an election and voting procedures as white people got as a matter of course, since all information was provided in English and in areas near the county seats.

Thus, the Stipulation and Order in *United States v. Cibola County, New Mexico*, No. Civ 93 1134 LH/LFG, (D.N.M., Apr. 21, 1994) (three-judge court), is 44 pages long, 33 pages of which is a Native American Election Information Program. This program provides that, "Cibola County shall employ at least three Native American Voting Rights Coordinators who will coordinate the Native American Election Information Program in Cibola County..." These coordinators have to be bilingual in either Navajo or Keres and English, they are to be hired only after the county consults with the tribes, they are to be trained in all aspects of the election process, they are to attend and make presentations at chapter and tribal council meetings, and perform numerous, specifically described functions that would provide election information to the Native American citizens of Cibola County.

It was and remains difficult, however, to compel obdurate county clerks and other county election administrators to perform the myriad election-connected functions in a way that meets the requirements of the court orders.²⁴ These cases argue persuasively for continuing the practice of seeking lengthy, detailed court orders that can be enforced through contempt proceedings.

²³ For example, the Consent Agreement is 36 pages long in *United States v. Socorro County, New Mexico*, Civil Action No. 93-1244-JP (D.N.M. Apr. 13, 1994) (three-judge court); in *United States v. State of New Mexico and Sandoval County, New Mexico*, Civil Action 88-1457-SC (D.N.M. Mar. 28, 1990) (three-judge court), is 12 pages long, and the accompanying Native American Election Information Program filed on April 30, 1990, is 24 pages long; the First Amended Settlement and Order in *United States v. San Juan County, Utah*, Civil Action No. C-83-1287 (D. Utah, Aug. 24, 1990) (three-judge court), is 21 pages; the First Amended Consent Decree and Order in *United States v. McKinley County, New Mexico*, Civil Action No. 86-0028-M (D.N.M., Jul. 20, 1990) (three-judge court), is 23 pages; and the Consent Decree in *United States v. State of Arizona*, CIV 88-1989 PHX EHC (D. Ariz. May 22, 1989), affecting Apache and Navajo Counties, is 24 pages, while the First Amended Consent Decree in that case (Jan. 3, 1994) is 28 pages long.

²⁴ A letter of understanding was developed between DOJ and San Juan County, New Mexico, which required the county to adopt a manual of procedures to comply with the language minority requirements of the Voting Rights Act. The manual would become final after review and concurrence by DOJ. Changes in the procedures would become effective upon the concurrence of DOJ. Letters of understanding have not been widely used by DOJ in its Voting Rights Act enforcement. The letters have the advantage of getting a fast remedy and avoiding the uncertainties of litigation. The main disadvantage of using a letter of understanding is the inability to seek contempt of court sanctions if the county does not follow the steps in the letter or the county's manual of procedures. If the actions that the county fails to take are significant, a legal action would need to be filed at that time, prolonging the time for obtaining a remedy.

An alternative approach was taken in a consent decree between DOJ and Bernalillo County, New Mexico, where the court order was accompanied by a manual of procedures to comply with the language minority requirements of the Voting Rights Act. *United States v. Bernalillo County, New Mexico*, CV-98-156 BB/LCS (D.N.M. Apr 27, 1998). The consent decree required that the county hire a native language coordinator who is bilingual in Navajo and English, and specifically noted that, "The primary responsibility of the [native language coordinator], a full-time employee of Bernalillo County, shall be to carry out the county's Navajo language election procedures, publicity and assistance, including assisting the county to carry out the procedures in the manual..." at p. 4. The consent decree also required the county to establish a travel, supply, and telephone call budget for the native language coordinator, and subjected the county to the preclearance provision in Section 3(c) of the Voting Rights Act, 42 U.S.C. § 1973a(c), which allows the county to make changes in the manual and for DOJ to review those changes to determine that they are nondiscriminatory before they can be implemented. This approach has the benefit of allowing the county to tailor its administrative procedures to its particular personnel and office situation, and of allowing practical changes to be made in the administrative procedures when necessary without having to request the three-judge court for an amendment to the court order.

Conclusion.

The federal observer provision of the Voting Rights Act continues to be extraordinarily effective in allowing the United States Department of Justice to enforce the Voting Rights Act. That provision should be extended.

The federal examiner provisions of the Voting Rights Act have accomplished their goal of allowing African American voter access to the voter rolls in areas where official resistance kept them from becoming registered voters. Those provisions have done their job and should be eliminated, especially insofar as they are prerequisites for the assignment of federal observers.

The federal observer provision of the Voting Rights Act performs an effective law enforcement function as it is written and applied. That provision should not be altered.

APPENDIX A

NUMBER OF PERSONS LISTED BY FEDERAL EXAMINERS
UNDER SECTION 7 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973e
1965 - 2000²⁵

<u>State</u>	<u>Total People Listed</u>	<u>Non-white People Listed</u>	<u>White People Listed</u>
Alabama ²⁶	66,539	61,239	5,300
Georgia ²⁷	3,557	3,541	16
Louisiana ²⁸	26,978	25,136	1,842
Mississippi ²⁹	70,448	67,685	2,763
South Carolina ³⁰	<u>4,654</u>	<u>4,638</u>	<u>16</u>
Total	172,176	162,239	9,937

²⁵ This information is extracted from the Semiannual Report of Cumulative Totals on Voting Rights Examining as of December 31, 2000. Prepared by the Office of Workforce Information, Office of Merit Systems Oversight and Effectiveness, U.S. Office of Personnel Management, Washington, D.C. 20415.

²⁶ People were listed in Autauga, Dallas, Elmore, Greene, Hale, Jefferson, Lowndes, Marengo, Montgomery, Perry, Sumter and Wilcox Counties.

²⁷ People were listed in Bullock, Lee, Screven and Terrell Counties.

²⁸ People were listed in Bossier, Caddo, DeSoto, East Carroll, East Feliciana, Madison, Ouachita, Plaquemines and West Feliciana Parishes.

²⁹ People were listed in Amite, Benton, Bolivar, Carroll, Claiborne, Clay, Coahoma, DeSoto, Forrest, Franklin, Grenada, Hinds, Holmes, Humphreys, Issaquena, Jasper, Jefferson, Jefferson Davis, Jones, LeFlore, Madison, Marshall, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Quitman, Rankin, Sharkey, Simpson, Sunflower, Tallahatchie, Walthall, Warren, Wilkenson and Winston Counties.

³⁰ People were listed in Clarendon and Dorchester Counties.

APPENDIX B

ASSIGNMENT OF FEDERAL OBSERVERS
 UNDER SECTION 8 OF THE VOTING RIGHTS ACT, 42 U.S.C. 1973f
 BY YEAR AND STATE, 1966 - 2000³¹

Year	AL	GA	LA	MS	NC	SC	AZ	CA	IL	MI	NJ	NM	NV	NY	TX	UT	WI	TOTAL
1966	823	22	397	470		158												1,870
1967			215	1,108														1,323
1968	252	138	125	507		152												1,174
1969	44		20	325														389
1970	403	6	16	126		19												570
1971			54	960														1,014
1972	140	44	60	146		105												495
1973																		0
1974	234	64	56	100														454
1975		11	116	1,252														1,379
1976	181	67	33	132											193			606
1977				89														89
1978	598	4		31		67		146					3		90		6	945
1979			130	1,212				140										1,482
1980	272	156	12	274											19			733
1981				72														72
1982	973	58	23	37														1,091
1983	187		3	1,288														1,478
1984	260	137		439	70	158									10			1,074
1985		19		152		7								107				285

³¹ This information is extracted from the summary of federal observer activity by calendar year, United States Department of Justice, Civil Rights Division, Voting Section. Southern states are listed first in this chart because federal observers were assigned only to Southern states for the first years shown.

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Year	AL	GA	LA	MS	NC	SC	AZ	CA	IL	MI	NJ	NM	NV	NY	TX	UT	WI	
1986	149	15		155			40					65						424
1987	51			490								12			15			568
1988	127	65		124	39	45	150					89			31	23		693
1989	13			13								22		132				180
1990	61	72			36	67	145					72				25		478
1991		12		345		40	3					38		19				457
1992	53	151		23			181					87		17	5	13		530
1993	11	84		124		20	25					36		230				530
1994	95	18	11	35	45		109					147		55		18		533
1995			19	104								29						152
1996	39	76		121		72	108	39				89		36	24	17		621
1997	5			174				7				5		28				219
1998	29	6					109	20				129		12		19		324
1999		5	56	342							50	6						459
2000	44	42	8	24			105	23	68	128	140			23	16	19		640
TOTAL	5,044	1,272	1,354	10,794	190	2,046	975	375	0	68	178	966	3	659	403	134	6	23,331

APPENDIX C

EXCERPTS FROM PLAINTIFF'S RESPONSE TO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS, *United States v. Conecuh County, Alabama*, Civil Action No. 83-1201-H (S.D. Ala., Jun 12, 1984).

A white voter waiting in line to vote stated to white poll official John P. Bewley that she was unable to obtain a yellow sample ballot distributed by the Alabama Democratic Conference. The black voter standing next in line had such a ballot. Mr. Bewley stated, "You ain't [sic] of the right color." During the same day, Mr. Bewley stated to federal observer Riddle, "See, the niggers bring in these yellow marked ballots. The nigger preachers run the niggers down here, you know. They tell them how to vote. I don't think that's right."

P. 7.

Poll officials instructed white registered voters to confirm their registration status in the office of the Probate Judge. Black voters whose names were not on the list were in each instance simply told that they could not vote, and were given no instruction by poll officials. White voter Salter's name did not appear on the list, and Ms. Salter acknowledged that she resided in a rural precinct and not in box 11-1. Ms. Salter nevertheless was allowed to vote an unchallenged ballot directly on the machine.

Pp. 8-9.

Ms. Lewis, who required assistance because of a vision problem, signed the poll list and stated that she wished for her companion (unidentified) to provide assistance in voting for her. White poll official Windham stated, "Can't nobody go in there with you." After a pause, Mr. Windham stated to Ms. Lewis, "you can fill out an affidavit and then she can go in with you. Can't you [read]?" Mr. Windham's tone and manner were sufficiently abrasive that Ms. Lewis left the voting place. Some moments later she was observed to remark to a companion, who was trying to persuade her to make another attempt to vote, "I've done had trouble with them twice before and I'm not begging them any more. I'm not scared but I'm not begging anybody." Ms. Lewis returned accompanied by Mr. Richard Rabb, at that time the Chair of the Conecuh county Branch of the Alabama Democratic Conference. Ms. Lewis was allowed to vote, and the poll officials provided necessary assistance with the affidavit. Ms. Lewis remind very upset and remarked, "Why couldn't they have let me vote to begin with?"

Pp. 16-17.

Black voters at box 9-1 (Old Town) were told throughout the day of the October 12, 1982 special run-off election, that no more than two voters were allowed in

the polling place at one time. This restriction was imposed on 30-35 occasions. In no instance were white voters required to conform to this procedure, and the poll officials allowed a many as five white voters in the polling place at a time.

P. 21.

Ms. Stacey enforced the limitation on the amount of time a voter could spend in the booth in a random and discriminatory fashion. She enforced the limitation against black voters more frequently than against white voters. During the last hour of voting the requirement was applied exclusively against black persons. On at least two occasions she told black voters that their time had elapsed when, in fact, it had not.

P. 24

During the course of the day, poll officials addressed all black voters by their first names. Older white voters were addressed by the courtesy titles of Mr. and Ms.

P. 35

White poll official James Ellis initiated new procedures for assistance of black voters. Without notice to any person, Mr. Ellis required assistors accompanying voters into the polling place to remain 30 feet outside the polls until Mr. Ellis had finished interviewing the voter and summoned the assistor.

Pp. 36-37.

Poll officials who assisted black voters did not read the ballot to the voters or otherwise advice the voters of the contests and the candidates. They simply asked the voters, "Who do you want to vote for?"

* * * * *

Poll official Lois Stacey marked the ballot for a voter she was assisting in contests in which the voter did not express a preference.

* * * * *

Poll officials frequently served as assistors without asking voters receiving assistance who they wanted to assist them. On a number of occasions, poll officials serving as assistors did not read the complete ballot to the voters.

P.40

APPENDIX D

JURISDICTIONS CERTIFIED FOR FEDERAL EXAMINERS
 UNDER SECTION 3(A) OF THE VOTING RIGHTS ACT AS OF 2000³²

<u>State</u>	<u>Jurisdiction</u>	<u>Term of certification</u>
Illinois	Town of Cicero	October 23, 2000 order, effective until December 31, 2005
Louisiana	St. Landry Parish	December 5, 1979 order, effective until further order of the court
Michigan	City of Hamtramck	August 7, 2000 order, effective until December 31, 2003
New Jersey	Passaic County	June 2, 1999 order, effective until December 31, 2003
New Mexico	Bernalillo County	April 27, 1998 order, effective until June 30, 2003
	Cibola County	April 21, 1994 order, effective until April 21, 2004 (originally certified by December 17, 1984 order)
	Sandoval County	September 9, 1994 order, effective until at least September 9, 2004 (originally certified by December 17, 1984 order)
	Socorro County	April 11, 1994 order, effective until April 11, 2004
Utah	San Juan County	December 31, 1998 order, effective until December 31, 2002 (originally certified by January 11, 1984 order)

³² Information obtained from *Jurisdictions Currently Eligible for Federal Observers as a Result of Orders Under Section 3(a) of the Voting Rights Act*, United States Department of Justice, Civil Rights Division, Voting Section, October 22, 2001.

Mr. CHABOT. Okay. Thank you. The gentleman's time has expired.

The panel up here is bound by the same rule as the witness panel is, and it's a 5 minute rule, so we will each have 5 minutes to ask questions at this time, and the Chair recognizes himself for that purpose.

And the question I'm going to ask—I'll just go down the line and let each of you deal with it.

And some of you have already touched on this in your testimonies obviously, but much of what we're doing is setting a record here, and so some repeating I think is probably good. It's been suggested in some of the written testimonies that the Federal Examiner Program may no longer be necessary.

Mr. Weinberg's written testimony further suggested that Congress should amend section 8 to make certification for the deployment of Federal observers independent of Federal examiners. Would each of you comment on the Federal Examiner and Observer Program and why the assistance of Federal observers is still necessary or not.

Ms. Randa?

Ms. RANDA. Thank you, Mr. Chairman. We play—we at OPM play a very limited support role to the Department of Justice in this program, and I have testified to the fact that the role of Examiner has evolved over the years and changed. But beyond that, I would think we would defer to the Department of Justice to make any decisions about exactly what changes should be made in the future.

Mr. CHABOT. Okay. Thank you. Ms. Pew?

Ms. PEW. I can speak to the Federal Observer Program and believe that it is well worth the time spent. It is my—those are my eyes and ears inside the polling places. I have very limited examiner contact. But I can speak to the Federal Observer Program; that it has been absolutely phenomenal. It's been a great boon in our county.

Mr. CHABOT. Thank you. Mr. Weinberg?

Mr. WEINBERG. Thank you. I mean I think Ms. Pew's response is somewhat indicative. She's been intimately involved as a county election official with the results of the work of the Federal observers, and has no knowledge of what the Federal examiners do.

And I think that's not her fault. It's because the Federal examiners just don't do much anymore. I think OPM, if we were being candid in the back room, would say they have to maintain all these lists of federally registered voters. They have to keep them current, keep the addresses up. Mostly now, they're removing people's names from those lists of federally registered voters, because they're dying.

Yet, the counties can't take those voters off their voting rolls without an okay from the Office of Personnel Management. I mean I think to some extent it is now getting—what were protections are now getting in the way of several functions, and I think they're not needed.

As far as the certification, and you know I think observers are important. As far as how to get them into a county the first time, I do think a certification procedure is important. I think it assures

everyone that there is a need for this law enforcement function to go on.

But as it stands now, the Attorney General has to personally sign the certifications. I think that's unnecessary. I think that function could be delegated to the Assistant Attorney General, much the same way as the Assistant Attorney General has authority delegated to object to voting changes under section 5 of the act, and I think that it could go on as a provision on its own.

I think it should.

Mr. CHABOT. Thank you. And my second question, Mr. Weinberg and Ms. Randa, if you want to comment on it, you could as well.

How does the Department of Justice determine whether Federal observers are necessary?

Mr. WEINBERG. There's sort of two tracks on that. And, you know, I must qualify everything I say by saying I haven't been at the Justice Department for almost 6 years. I don't know what's changed and what's not. I doubt that it has changed very much.

One track is where there's an investigation before the election that starts 6 weeks before an election, and is described in some detail in my extended remarks. It's an investigation. It starts out with telephone calls to local officials, to minorities who are knowledgeable in the area about election matters and devolves down to field investigation by attorneys who relay information up to a central person in the Voting Section of the Civil Rights Division, who then combines the information; is talking with OPM; puts together a memorandum setting out the facts for each site, and recommending how many observers are needed.

So it's a very intensive, a very detailed law enforcement investigation. That's how it usually works in Southern areas. Where the concern is with language minority provisions of the Voting Rights Act, it's a little bit different. There still is an investigation, but because the problems involved with violations of the Language Minority provisions of the Voting Rights Act usually are systemic and do not depend on any particular election contest in a city, county, or school district—

Mr. CHABOT. Do you do that before each election?

Mr. WEINBERG. Yes.

Mr. CHABOT. Okay. Thank you.

Mr. WEINBERG. In the specially covered areas.

Mr. CHABOT. Okay.

Mr. WEINBERG. Yes.

Mr. CHABOT. Thank you. You can continue.

Mr. WEINBERG. Because of the language violations of the Language Minority provisions usually are more systemic, an initial investigation is what's needed. Usually, these days, there's litigation that results and a court certifies the county. So you have everything you would have leading up to litigation, which is a lot of work and a very intensive effort.

After that, the first election, however, the observers could be assigned again and again without repeated investigations. It's the information really one gets out of the polling places for the language minority coverage that would recommend going or not going again to the next election.

Mr. CHABOT. Okay. Thank you very much. My time has expired, but, Ms. Randa, is there anything that you want to—

Ms. RANDA. I would just confirm what Mr. Weinberg said that our involvement is to coordinate on the number sent to each polling site.

Mr. CHABOT. Okay. Thank you very much. My time has expired.

The Ranking Member of the overall Committee, Mr. Conyers, is recognized for 5 minutes.

Mr. CONYERS. Thank you, Chairman Chabot.

Three considerations. I start with Mr. Weinberg. There's been only one certification by the Attorney General to section 6, Titus County, Texas. Does that mean a lot are coming through the courts under section 3 or does it mean there need to be a lot more?

My second consideration—and I'll go over these again—is this linkage between certification of observers and its validity.

And then finally, I had one of the witnesses tell me that Federal observers are kept out of the polls by State law, so it's frequently hard for them to see anything that's happening. It's hard to be an observer if you can't get into the polls under State law.

Can you help put some of these things into context?

Mr. WEINBERG. I can help with some of them I think.

Taking the last one first, State law would keep most people out of the polling places, but Federal observers get to in the polling places because the Voting Rights Act lets them. It's the authorization of the Voting Rights Act that lets Federal observers in. Otherwise, the Federal observers are like people off the street, and just can't walk into a polling place on Election Day.

As far as the certifications go, as I haven't been involved in that, I don't know. I went onto the Justice Department website a couple days ago to see if I could tell what's been going on in the last few years, and there have been a lot of court certifications it looks like as a result of litigation under the Language Minority provisions of the Voting Rights Act. And observers are being assigned to watch elections in those areas.

I don't know why there have been few, if any, certifications by the Attorney General of counties.

Mr. CONYERS. Well, from everything I've been hearing, you know we've got piles of complaints that come in. Unless all of them are invalid, I mean this doesn't add up, Mr. Weinberg.

Let me put it like this: Are attorneys who are Federal observers precluded from coming into the voting booths?

Mr. WEINBERG. The Justice Department attorneys in most States would be precluded from going into the polling places because they're neither registered voters there nor polling place officials.

The Federal observers, however, can go into polling place where they're assigned—any county jurisdiction that's been certified.

Mr. CONYERS. Ms. Pew, do you or Ms. Randa, want to add anything to this discussion.

Ms. PEW. I will add that in Arizona, observers, with prior approval, are welcome into our polling places. We ask that they submit something in writing to me by the Friday prior to the election, so that I can send that to the poll workers.

Given that a lot of them are non-Native American, and then poses a threat. We did have an incident in 2000 that prompted

quite a chaotic sense in about 17 of our precincts, and, for that reason, we began a political protocol that is mandatory for our observers.

Mr. CONYERS. Could you get a little outdated considering the way the process is working now?

Ms. PEW. I can't respond to that, because in our county the Recorder's Office and the Elections Office are separate. The Recorder's Office maintains the voter rolls, as far as purging those, as Mr. Weinberg has spoken to, so I can't respond to that.

Mr. CHABOT. Ms. Randa?

Ms. RANDA. I wouldn't want to hazard a conclusion about whether it should or how it should change, but I will confirm what Mr. Weinberg said about there having been very little activity other than removing names from the list of registered voters. So that part of the role is what has evolved.

Mr. CONYERS. Thank you, all. Thank you, Mr. Chairman.

Mr. CHABOT. Thank you. The gentleman's time has expired.

The gentleman from Virginia, Mr. Scott, is recognized for 5 minutes.

Mr. SCOTT OF VIRGINIA. Thank you. Thank you, Mr. Chairman.

Mr. Weinberg, let me ask you a little more specifically, just from a practical point of view, if a local civic organization suspects problems in a certain area, how do they get an observer into that area now, and how would you propose changing that mechanism?

Mr. WEINBERG. Getting in touch with the Justice Department about the need for Federal observers is the easiest thing on earth. All you need to do is call. A telephone call will do it.

In fact, the Justice Department attorneys rely very, very greatly on information and input from people who are in the counties, whether they are victims or witnesses or just concerned citizens.

We always were open to those kinds of contacts. If somebody has a particular problem in any county, we always encouraged to call us, let us know what the concern is, and we will investigate.

If the investigation reveals facts that show violations of the Voting Rights Act and need for observers, the observers will be sent.

Now, in Virginia, there are no certified counties, so that whole certification process we were talking about before, where there has to be an investigation, and then a recommendation to the Attorney General to sign a piece of—he actually signs a piece of paper that says I hereby certify, and then that's published in the Federal Register before Federal observers can be assigned.

Mr. SCOTT OF VIRGINIA. And that's the process now?

Mr. WEINBERG. Yes.

Mr. SCOTT OF VIRGINIA. And are you proposing any change to that process?

Mr. WEINBERG. Yes. I'm proposing that in my imagined the new process there would be an investigation and the Assistant Attorney General would agree to a recommendation and then sign a piece of paper that says that Federal observers would be needed to watch proceedings in the polling place in order to enforce the Voting Rights Act.

Mr. SCOTT OF VIRGINIA. Now, how long does that certification stay active?

Mr. WEINBERG. Now, it stays active forever. A jurisdiction can petition under section 13 of the Voting Rights Act to stop the Federal examiner appointment. I don't think anybody ever has.

Mr. SCOTT OF VIRGINIA. Do the observers have any specific qualifications?

Mr. WEINBERG. Observers, by and large, OPM, as I understand it tries to have observers be OPM personnel where that's possible; in some instances, where language minority voters are concerned, there may not be sufficient numbers of OPM personnel who speak that language, especially in Indian country. And so people from other agencies are taken in.

But the Federal observers are personnel who are trained. There are periodic trainings through the year, and then there are on-site trainings that are specific and briefings of the observer before the election.

Mr. SCOTT OF VIRGINIA. If you didn't have the observers, how would you investigate complaints?

Mr. WEINBERG. When I started in the Justice Department, I was law clerk in the summer of 1965. The Voting Rights Act passed in early August, but we still had many lawsuits that were pending. They were terribly cumbersome. They're very difficult to investigate. The records alone are very difficult to get, and I think the Court, in *South Carolina v. Katzenbach*, which found the Voting Rights Act special provisions constitutional, recognized how difficult it is to mount a standard garden variety lawsuit against violations of the Voting Rights Act.

So, absent the Federal observers, it would be terribly, terribly difficult.

Mr. SCOTT OF VIRGINIA. Thank you, Mr. Chairman.

Mr. CHABOT. Thank you. The gentleman's time has expired.

I'd ask unanimous consent that the gentleman be given one additional minute, if he would yield to me for a moment?

Would the gentleman from Virginia yield to me?

Mr. SCOTT OF VIRGINIA. Yes.

Mr. CHABOT. Okay. I just wanted to follow up with one question, Mr. Weinberg. What criteria would you envision for certification of observers?

Mr. WEINBERG. I think the criteria would be that there is evidence of probable violations of the Voting Rights Act. I mean I don't know that one needs much more.

The certification procedure now is just about that. It's—for examiners. It's not a detailed certification.

Mr. CHABOT. Okay.

Mr. WEINBERG. And I would think it shouldn't—certainly not be more detailed and possibly a little less. But it would be keyed to possible violations of the Voting Rights Act.

Mr. SCOTT OF VIRGINIA. Well, Mr. Chairman.

Mr. CHABOT. I yield back.

Mr. SCOTT OF VIRGINIA. Reclaiming my time, when do they certify it now?

Mr. WEINBERG. They certify—now the certification is it's necessary to enforce the 14th and 15th amendments.

Mr. CHABOT. If the gentleman would yield? Isn't it also or 20 written complaints?

Mr. WEINBERG. Yes. There's an alternative that if you get 20 written complaints. That, however, triggers the Attorney General's consideration. And so it all devolves pretty much to the same point, which is we in the Justice Department had to figure out that there were violations of the law that were probable and usually were happening and persuade the Attorney General of that.

Mr. CHABOT. Thank you. The gentleman's time has expired.

The gentleman from North Carolina, Mr. Watt, is recognized for 5 minutes.

Mr. WATT. Mr. Chairman, let me defer to Mr. Scott, if I can. I'm trying to see whether there are any things I need to question about.

Mr. CHABOT. Okay. All right. We'll just start from scratch here then, and yield to the gentleman from Georgia. Mr. Scott is recognized for 5 minutes, and then we'll come back to Mr. Watt.

Mr. SCOTT OF GEORGIA. Thank you, Mr. Chairman.

Mr. Weinberg, I wanted just start for a moment with your suggestion that we move away from the Federal examiners, because I—given your history, you were there at the beginning. You understand the whole make up and need for both examiners and observers. I'm not quite convinced, just from my own preliminary investigation of this that we may need to do away with examiners.

And your reason for saying we may need to modify or do away with the examiners was that the link doesn't exist. And I think your meaning of the link that I got was your quote was that there were no more hostile elected officials.

Can you elaborate on that, because there is still, in my estimation, hostile elected officials in various pockets of the South, and, a matter of fact, all across this nation. And if that is the link that you think doesn't exist, I am here to assure you that it does still exist.

I'm always of the opinion that we move with and err on the side of caution. In Georgia, for example, there are still 300,000 eligible African-Americans that are unregistered to vote, and time after time and case after case, we have documented hostility. Crosses are still being burned. In some of these areas, voters are being intimidated.

So I'm very concerned about doing away with that, and especially in view of the fact that the Federal examiners are used as the trigger to determine whether or not to send these observers in. So how do we replace that trigger? But would you mind elaborating on that linkage?

Mr. WEINBERG. Sure. I'd be happy to.

I agree with you a hundred percent that there are hostile polling place officials throughout the country, and that's one of the reasons that I think the Federal Observer provision is so important.

The link I was talking about is it was a specific link to newly federally registered voters, as it existed between 1965 and 1972 in the South. As the Voting Rights Act was constructed, the observers were to watch specifically to see if those particular voters were being hostilely treated in the polls. And the complaint structure of the Federal examiners was as to complaints as to the mistreatment of those newly enfranchised voters.

The passage of time has taken care of many of those situations. Certainly, some of those same areas are areas where Federal observers still would be assigned.

But it's not because those African-American voters have just been put on the roles by a Federal examiner. The problem is both broader and deeper than that. And I think Federal observers are necessary for that.

The Federal Examiner function for registering voters, however, has been—it hasn't been used in 30 years. There were a couple of isolated instances of Federal registration in 1982 and 1993, but apart from that, it hasn't been used since the 1970's, in some part because of the success of the Voting Rights Act, but also because of the enactment of new laws that make voter registration a lot easier—the restrictive hours and locations that people were faced with in the '60's. Now, you can register by mail.

So there are improvements in the voter registration process, and it is the voter registration process and the maintenance of the names of those people who were listed in 1965 to 1972 that the examiner provisions of the Voting Rights Act are geared to.

So it has nothing to do with the need for Federal observers to get information on violations in the polling places—discrimination against racial or language group members. That's going on nationwide, and I think the observers are necessary for that.

Mr. SCOTT OF GEORGIA. Mr. Weinberg, why are then—why was the Federal Examiner certification a prerequisite for bringing in the observers in the first place?

Mr. CHABOT. The gentleman's time has expired, but you can answer the question.

Mr. WEINBERG. All right. The Voting Rights Act after the Selma to Montgomery March brought everything to a head in early 1965. The big focus was on getting people registered to vote. It was—we were talking total disenfranchisement. And so we needed to allow people to get on the voting rolls, and the way that the Voting Rights Act is constructed, if you read the sections 6 and 7, you'll see a very, very intricate pattern of getting people to—into the examiners, to list them, to turn the lists over, and this was a big deal because you were taking a Federal employee, a Federal examiner, and inserting that Federal examiner into what is a State and local process, which is voter registration. The principles of federalism were very, very strong, and this was an extraordinary remedy, the first time ever in this country, that you had these Federal officials coming in and just taking over, just taking over and without a court order. It was just an administrative decision. In order to make that administrative decision have the import that it needed to insert those Federal people into the State function, the Voting Rights Act drafters had the Attorney General personally sign a certification that this was necessary to enforce the 14th amendment and 15th amendment.

And that's how this came to be. The reason they're linked is because the drafters then thought, well, we have all these newly enfranchised voters coming into these terribly hostile polling places, we can't just let them wander in there. But what are we going to do? They say, well, we'll have authorized Federal observers to watch what happens and get the information back to the Attorney

General so the Justice Department could take action if it was needed.

Mr. SCOTT OF GEORGIA. Thank you, Mr. Chairman.

Mr. CHABOT. The gentleman's time has expired. The gentleman from North Carolina, Mr. Watt, is recognized for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman.

Ms. Randa, when observers are sent out—have been sent out in the past, has there a history of anybody complaining about the observers. And, if so, what do those complaints normally consist of and who normally makes them?

Ms. RANDA. Any incidents or issues that come up during a given exercise or observation would be put in the report and it is then passed to Department of Justice, who maintains that and decides whether to take any action on it.

We don't actually maintain that information, historically, so I couldn't speak to the record on that. I know anecdotally, years ago, there were sometimes issues getting access and getting friendly treatment. But I don't believe that's been a problem in recent years.

Mr. WATT. Mr. Weinberg, to some extent, what you are proposing is constructing a new model for sending out observers, which I think probably is a reasonably good idea. The prior model applied that the observers to cover jurisdictions, select jurisdictions for sending observers to; isn't that right?

Mr. WEINBERG. Right. The observers in all the specially covered jurisdictions.

Mr. WATT. Is there—in the construction of the new model that you are proposing, if you were constructing a new model that didn't apply only to covered jurisdictions—it applied in some triggering fashion that triggered based on complaints or suspicions, how would you articulate what the standard would be? You said at one point I think in your testimony that you thought maybe the observer provisions ought to be applied nationally. But how would you articulate the standards that you would use to trigger it?

Mr. WEINBERG. Yes. My idea would be to keep the Federal observers tied to the Voting Rights Act enforcement. And you would need a finding by the Justice Department that the provisions of the Voting Rights Act are being violated or actions are happening which would constitute violations of the Voting Rights Act. You need that finding before—

Mr. WATT. Are being violated or—I mean it's too late after they've been violated. The election is taking place. So you'd—I mean you'd have to be looking at some imminent danger.

We presumed under the old framework that there was imminent danger because there was a history, and we know that there is some imminent danger going forward, because people are engaging in this—or appear to be engaging in some conduct. But I'm just trying to figure out how you would articulate what the standard would be for the Justice Department to trigger the observer provisions?

Mr. WEINBERG. Yes. The law now talks about circumstances that appear to be reasonably attributed to violations of the 14th and 15th amendments.

All along, before a certification can be made and even now, before Federal observers are assigned, the Justice Department makes a determination that racial and language minority group members are facing circumstances in the polling place that would violate the Voting Rights Act. We get that information by conducting investigations, conducting interviews in the normal way one would investigate a possible violation of a Federal law.

When you reach that conclusion, you don't have to have proof by a preponderance of the evidence in a structured way that the violations have occurred. What you need is information that indicates that those violations are occurring, and that's basically what happens.

Mr. WATT. So it would be some kind of good faith determination by the Justice Department that a violation of the 14th or 15th amendment has or is about to occur?

Mr. WEINBERG. Right.

Mr. CHABOT. The gentleman's—

Mr. WATT. May I ask unanimous consent for one additional minute—

Mr. CHABOT. Without objection, so ordered.

Mr. WATT. —just to ask one additional question of Mr. Weinberg.

The reports of the observers—you testified you don't think they ought to be made public, published, unlike when we're observing elections in other countries.

What's done with those reports now?

Mr. WEINBERG. Those reports are used by the Justice Department attorneys to determine whether more legal action is needed, if there's already a lawsuit pending or if there's no lawsuit, whether a legal action is needed. And I should say also that these reports are not always kept from public view. They're—the redacted versions have been released under the Freedom of Information Act. I mean there are ways to see them. Often, they're not all that illuminating since they're—

Mr. WATT. But wouldn't it serve some deterrent effect for—to future voting rights violations to publish the reports of the observers?

Mr. WEINBERG. Yes. I think the deterrent effect is in the legal action by the Justice Department, and I think that's been shown to be very effective.

And since these reports often are also used if a court has certified a county, the report goes to the court. And the reports are used in those instances to determine liability of the defendant or the county and whether the relief has been adequate. So they are in that sense used right away, and I think the deterrent effect is really adequate the way it exists now.

Mr. CHABOT. The gentleman's time has expired.

The Chair, in light of the fact that this is the ninth hearing in this—on the Voting Rights Act and we have more to come at some future point has been avoiding second rounds. However, the Chair would like to ask one question. And it's my understanding the Ranking Member has an additional question as well, so I would recognize myself for a minute.

And if I could, Ms. Pew, ask you a question, and this is again establishing—one of our principal goals here is to establish a record

in light of the fact that this may well be before the Supreme Court some day.

Let me ask you what types of discrimination do minorities sometimes continue to experience in polling places that you're aware of?

Ms. PEW. Well, it's my experience that given the outline and the guideline that was given to us in the consent decree that we've complied with and continue to, even though it is now outdated and we're not made to do that, we continue to do that, and we're not seeing discrimination. We are—we've got a robust program that is reaching out and based on the numbers of the voters that are increasing, we're not seeing the discrimination.

Mr. CHABOT. Yeah. What were the discriminations based upon in the consent decree that you—

Ms. PEW. They were based on denial. They weren't able to read the ballot. They weren't able to understand the ballot. Things were posted in the newspapers by statute, but they couldn't understand them, and that's definitely a disadvantage to someone who is not only maybe language non-speaking, but very language limited as far as even in their cultural, their native language. They don't read Navajo a lot of them.

And so it is a verbal language. It is important that all of these things be looked at. And I believe that given the outline we have in the consent decree and the things that we're still following that it needs to continue.

Mr. CHABOT. Okay. All right. Thank you very much.

The gentleman from Michigan is recognized for two additional minutes.

Mr. CONYERS. Thank you, Mr. Chairman.

Mr. Weinberg, you've noted that there haven't been any complaints regarding federally listed voters over the last 20 years. But do we need new tools to deal with the sometimes large-scale purges of eligible voters from the voting rolls? How do we keep voters on the voter rolls if we eliminate examiners and observers—as I understand are only at the polls on election day.

Mr. WEINBERG. The Federal Observer provisions don't address all of the violations that could occur with regard to voter registration and voting. It's really—it really has to do with what happens inside the polling places on election day. But the law certainly is adequate as it stands to deal with other discriminatory actions and that would include discriminatory purges of the rolls.

Mr. CONYERS. Who would do it?

Mr. WEINBERG. The Justice Department could do it.

Mr. CONYERS. But they wouldn't have to be observers?

Mr. WEINBERG. No. No.

Mr. CONYERS. They would be what kind of personnel?

Mr. WEINBERG. It would be investigations in the normal course of business at the Justice Department, investigations by attorneys, by the FBI. That's how it works.

Mr. CONYERS. Okay. Thank you, Mr. Chairman.

Mr. CHABOT. Thank you very much, Mr. Conyers.

That concludes this hearing, and I want to thank the witnesses again for their testimony. It has been very, very helpful.

If there's no further business to come before this Committee, we're adjourned. Thank you.

[Whereupon, at 2:03 p.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE JOHN CONYERS, JR. A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MICHIGAN AND MEMBER, SUBCOMMITTEE ON THE
CONSTITUTION

Despite the optimistic tone struck by our witnesses and members of this Committee, racial and language minorities still face serious obstacles to equal participation in the electoral process. During every election cycle, my staff fields numerous complaints involving election day mischief from around the country. While many simply involve hardball campaign tactics, a troubling number cross the line into questionable race politics that raises the issue of systematic suppression of the minority vote.

During the 2002 election, I referred a complaint to the Department of Justice concerning fliers circulated in African-American areas of Baltimore, Maryland, that were intended to confuse and suppress voter turnout in those communities. The flier misstated the date of election day and implied that payment of overdue parking tickets, moving violations and rents were qualifications for voting. Similarly, During the 2003 Kentucky gubernatorial election, I referred a complaint to the Department concerning reports that 59 precincts with significant African-American populations had been targeted for vote challenges by local campaign officials.

These kind of tactics have been the target of injunctive relief by the Department under provisions of the Voting Rights Act of 1957. For example, in 1990, the Department sued over a so-called "ballot security" program in North Carolina, where post-cards were mailed to African-American voters that were designed to discourage them from coming to the polls by providing misinformation about the requirements for voters. As a remedy to these allegations of voter intimidation, the parties entered into a consent decree, but the damage was done, with the major African-American candidate losing a close election.^{/1/}

The failure of the 1957 Act to bring prospective relief for interference with the right to vote was the main reason behind the enactment of Sections 3, 6 & 8 for the Voting Rights Act of 1965. These provisions give the federal courts and the Attorney General the authority to monitor the procedures in polling places and at sites where ballots are counted to enforce the voting guarantees of the fourteenth or fifteenth amendments. Unlike, mere attorney coverage or election monitoring by the advocacy community, these provisions give federal monitors the legal authority to enter all polling places, and even the voting booths themselves, to provide the closest scrutiny of the elections process.

To date, a total of 148 counties and parishes in 9 states have been certified by the Attorney General for election monitoring pursuant to Section 6.^{/2/} In addition, 19 political subdivisions in 12 states are currently certified for election monitoring by federal court order, pursuant to Section 3.^{/3/}

On election day last week, the Department sent federal observers and Justice Department personnel to 16 jurisdictions in seven states to monitor elections, including Hamtramck, Michigan, a jurisdiction partly within my district which had an ugly episode of discrimination against Arab-Americans at the polls in 1999. In 2004, the

^{/1/}Consent Decree in *United States of America v. North Carolina Republican Party*, No. 91-161-CIV-5-F (Feb. 27, 1992).

^{/2/}Alabama (22 counties), Arizona (3), Georgia (29), Louisiana (12), Mississippi (50), New York (3), North Carolina (1), South Carolina (11) and Texas (17).

^{/3/}California (6), Illinois (1), Louisiana (1), Massachusetts (1), Michigan (1), New Jersey (1), New Mexico (2), New York (3), Pennsylvania (1), South Dakota (1), Texas (1), and Washington (1).

Department coordinated and sent 1,463 federal observers and 533 Department personnel to monitor 163 elections in 105 jurisdictions in 29 states.

I believe that the monitoring of elections by federal observers is an important aspect of the Voting Rights Act that should be reauthorized. As prior witness testimony has clearly shown, discrimination at the polls remains a problem. Where jurisdictions have a record of discrimination or current threats exist to ballot access, minority voters should not have to wait for federal assistance to come after the fact.

Monitors play the important role of addressing concerns about racial discrimination and ensuring compliance, so that voters can rely on a fair process now, rather than waiting for litigation later.

Given the fact that the Department has trumpeted its "voter protection" programs, I am disappointed that they did not appear today at today's hearing. In numerous press releases, the Department has appeared to express a strong commitment to the monitoring program, especially in the area of Section 203's bilingual election requirements. There are questions, however, about the rising emphasis on attorney coverage, the limited number of certifications under Section 6, and whether there has been a shift in enforcement priorities. While Mr. Weinberg can act as an able proxy for the Department in most areas, only the Department can definitively respond to these questions.

Before closing, I must commend the work of the Office of Personnel Management, whose efforts at recruiting, training, and supervising election monitors is the key to the program's success. Ms. Randa, I look forward to your testimony and hope that you address ways of improving the long-term viability of the monitoring program.

E. Mark Braden
Of Counsel
mbraden@bakerlaw.com

Education:

J.D., Washington and Lee University School of Law, 1976

B.A., Washington and Lee University, 1973

Bar Admissions:

U.S. Supreme Court, 1983

U.S. District Court, District of Columbia, 2002

District of Columbia, 1989

Ohio, 1976

Summary:

E. Mark Braden concentrates his work principally on election law and governmental affairs. This field includes work with Congress, the Federal Election Commission, state campaign finance agencies, public integrity issues, political broadcast regulation, contests, recounts, the Voting Rights Act, initiatives, referendums and redistricting. Each is an area in which he has substantial knowledge and unusual experience.

Mr. Braden spent ten years as Chief Counsel to the Republican National Committee prior to joining Baker & Hostetler. He has worked intimately with many elected officials, the major national political consultants and pollsters providing successful, and often highly innovative, legal guidance. For example, in campaign finance, he can rightly claim to be the father of "soft money" as now used in national political campaigns. In redistricting, he has argued successfully at the U.S. Supreme Court and has been involved in litigation across the nation. In addition to his experience in the area of federal election law, Mr. Braden is widely recognized as an authority on state election laws, having served as Chief Counsel to the Ohio Elections Commission and Election Counsel for the Secretary of State in Ohio. He has been a principal lawyer in many of the largest recounts in our political history.

Mr. Braden was a key negotiator for the site city agreements and many of the other contracts for four Republican National Conventions and has been special counsel to the House Administration Committee. He has also worked with many nonprofit organizations on government affairs issues.

Mr. Braden has testified before congressional committees and the Federal

Election Commission on numerous occasions. His experience in these areas has been recognized by numerous invitations to be a guest lecturer at universities and institutes across the nation.

Mr. Braden is a member of the adjunct faculty of George Washington University and a former Captain of the United States Army Reserve.

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U.S. ELECTION ASSISTANCE COMMISSION
VOTING FRAUD-VOTER INTIMIDATION MEETING

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Taken on the date of:

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THURSDAY, MAY 18, 2006

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Taken at the office of the EAC

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1225 NEW YORK AVENUE, NORTHWEST

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WASHINGTON, D.C.

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21 Start time: 1:00 o'clock, p.m.

22 Taken before: Jackie Smith, a court reporter

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1 PARTICIPANTS:

2

Tom Wilkey, EAC Director

3

Juliet Thompson, EAC Legal Counsel

4

Paul Decretorial, Chairman, EAC

5

Peggy Sims, EAC Staff

6

Job Serebrov

7 Tova Wang
8 Todd Rokita
9 Robert Bauer
10 Mark Hearne
11 Jon Greenbaum
12 Benjamin Ginsberg
13 Kathy Rogers
14 Barry Weinberg
15 J.R. Perez
16 Gavin Gilmour
17 Edgardo Cortez
18 Craig Donsanto

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1 P-R-O-C-E-E-D-I-N-G-S

2 MS. SIMS: We're still missing one.
3 Our chairman and vice-chairman will be coming by
4 and participating for part of the program.
5 Right now, they are trying to finish up their
6 own meeting, a little discussion.

7 My name is Peggy Sims. I have been
8 with the EAC since April, 2004. Prior to that
9 time, I worked for 18 years with the FEC
10 national clearinghouse in election
11 administration, and I am the contracting officer
12 on this project, so that's how I got involved.

13 I would like to just quickly -- this
14 is really our consultants' meeting, but before

15 we get into that, I just wanted to review,
16 review our authority in this area. Obviously,
17 we have no enforcement authority when it comes
18 to voting fraud, but under HAVA, we're charged
19 with developing national statistics on voter
20 fraud, and methods of deterring and
21 investigating vote fraud, which we obviously
22 have to do in consultation with the folks who

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1 actually do the enforcement.

2 we also are charged with developing
3 ways of identifying, deterring, and
4 investigating methods of voter intimidation, as
5 many of us feel is really a subset of voting
6 fraud, but it may be something when we get to
7 the definition phrase, we may want to talk a
8 little bit more about what we mean by
9 intimidation because it seems to mean different
10 things to different people.

11 The focus of this project was to do
12 some preliminary research just to get us
13 started. We selected a bipartisan team of
14 consultants to develop a comprehensive drafted
15 description of what constitutes voting fraud and
16 voter intimidation, and to perform some
17 background research, which they will review, to
18 establish a project working group, convene the
19 working group, and basically we're looking for
20 your ideas as we go along.

21 Once the working group is completed,
22 we're going to keep a transcript of this

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1 session. We will also keep lots of notes. They
2 are going to take your recommendations and fold
3 those into a final report that goes to our
4 Commissioners. Ultimately, that report, if we
5 have any clarifications or corrections, we will
6 deal with our consultants first, and then it
7 will go to our Standards Board and Board of
8 Advisors for review and comment as well. That's
9 something that we're required to do with all of
10 our research under HAVA.

11 The purpose of the working group is
12 to collect experts in this area. We have
13 election officials, state and local, we have
14 applicants, and some serve more than one
15 function. And given the preliminary research,
16 and your expertise and EAC authority under HAVA,
17 we would like you to provide ideas as to where
18 is EAC supposed to go from here, and what should
19 we follow up with additional research, other
20 additional efforts that we can mount, given our
21 authority in this area.

22 We aren't here to debate what other

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1 agencies are supposed to do, or what
2 organizations should or should not be doing.
3 We're focusing on what EAC can do. And one of
4 the things EAC can do is offer help to other
5 election officials, states, and other agencies
6 perhaps, but we don't have any enforcement
7 authority and we don't have any authority to

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8 tell other agencies what to do.

9 Okay. What I'd like to do is just
10 start going around the table and have everybody
11 say a little bit about themselves. Most of you
12 know each other, but I also want to have the
13 ladies back here introduce themselves as well.
14 May I start here?

15 MR. SEREBROV: I don't exist.

16 MS. SIMS: You don't exist?

17 MR. SEREBROV: I'm just here for fun.

18 MS. SIMS: Then we'll have them pick
19 it up from here.

20 MR. SEREBROV: I am Job Serebrov from
21 Arkansas. I have practiced election law for
22 approximately 15 years, both in Arkansas and

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1 other southern states, and internationally.
2 I helped review and draft changes to the
3 election code in Libya. I served as an Election
4 Commissioner in Arkansas for six years. I have
5 drafted some election statutes in Arkansas
6 itself, and I was general counsel for the
7 election ballot fraud committee for the
8 Republican Party in Arkansas, appointed by
9 Hutchinson. I had an Arkansas organization
10 called Our Kansas For Fair Elections, which
11 operated for about seven years.

12 How much more do you want?

13 MS. SIMS: If you're comfortable with
14 that, that's fine.

15 MR. SEREBROV: Any other questions
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16 can be referred to my secretary -- no.

17 MS. WANG: I am Tova Wang. I am a
18 fellow with the Century Foundation, which is a
19 nonpartisan think tank, based both in New York
20 and here in D.C.. I have been involved in
21 politics since adulthood, but I have been
22 working on these issues since the 2000 election.

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1 I have been working on the issues since then and
2 a career was born. With the problems we
3 continue to have, the career will be maintained.
4 I am also a lawyer by training.

5 MR. ROKITA: I am Todd Rokita,
6 Secretary of State of the State of Indiana. I
7 also do a lot of election administration,
8 election reform, and I think I can represent all
9 of the secretaries of states in the nation with
10 this sentence; it has become more and more our
11 career as well, although this secretary will
12 tell you that I don't want it to be.

13 I look for these reforms to be
14 finite, to a certain extent in length, to be
15 read as problem solved. I have other divisions
16 in my office that I would like to put some more
17 attention to, quite honestly, but we definitely
18 see the need for these reforms, at least some of
19 them.

20 MR. BAUER: My name is Bob Bauer, one
21 the partners of a law firm. I have been
22 practicing election law since 1977, and I have

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1 experience, largely through political parties,
2 with this issue but also in other ways through
3 other conferences or professional discoveries
4 related to my area of practice.

5 MS. SIMS: Thank you.

6 MR. GREENBAUM: I am Jon Greenbaum,
7 Director of the Voting Rights Project. I am
8 actually here for my executive director. After
9 the 2000 election and problems that occurred,
10 the civil rights community saw the need for a
11 nonpartisan organization or coalition of groups
12 to deal with the problems that were apparent
13 from that election, and so Election Protection
14 was formed. The lawyers committee has
15 essentially been the legal lead of the Election
16 Protection Coalition since it's inception. In
17 2004, we had roughly 8,000 legal volunteers who
18 staffed a hot line that received 110,000 calls
19 on Election Day and 200,000 calls during the
20 election process that had attorneys out in the
21 field, legal volunteers out at the field, at the
22 polls, at legal coordinating committees, and as

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1 mobile field units.

2 we plan on, in sort of going forward
3 since the 2004 election, we work on both
4 election protection and electoral reform issues.
5 We see those as kind of being interconnected.
6 And as one, we created something within my
7 project called the National Campaign for Fair

8 Elections, which is specifically designed to
9 work on those issues. And I want to thank the
10 EAC for inviting us to take part in this. Oh,
11 and prior to that, I worked at the Department of
12 Justice in the civil rights division in the
13 voting section with Barry, during my time there
14 for seven years, and I enforced basically all
15 the voting rights laws, all the federal voting
16 rights laws there.

17 MR. GINSBERG: I am Ben Ginsberg. I
18 a partner at Patton, Boggs, here in Washington.
19 I have been practicing election law since 1982.

20 MS. ROGERS: My name is Kathy Rogers.
21 I am Director of Elections for the State of
22 Georgia. I am one of the people who did not

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1 intend to grow up being an election official. I
2 started my career almost three decades ago as a
3 poll worker many, many years ago, and I am very
4 pleased now to be able to, in the position I am
5 in right now, appreciate the opportunity to work
6 on this groups.

7 Those of us who are election
8 officials often enjoy reading things that
9 analysts and esteemed attorneys have put
10 together. And frequently we're the ones who are
11 trying to implement the election while taking
12 everything into account. So I think this group
13 has a great focus.

14 MR. WEINBERG: My name is Barry
15 Weinberg. I was the acting chief and deputy

16 chief of the civil rights division voting
17 section of the U. S. Department of Justice,
18 there for 25 years. I supervised the Justice
19 Department and the Federal Reserve Program, as
20 well as all kind of law enforcement, including
21 national voter registration. I retired in
22 January, 2000. Since then, I have kept some

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1 contact going. My wife and I have an article in
2 the Temple Law Review called, Problems in
3 America's Polling Places, how They Can Be
4 Stopped," and doing some work internationally,
5 election monitoring, lecturing, seminars,
6 traveling. Before that, we were in Liberia
7 doing seminars on election dispute resolution,
8 and that has formed the basis for a book I have
9 written coming out next month called,
10 "Resolution of Election Disputes." That will be
11 the principles that can be used in election
12 challenges.

13 MR. PEREZ: I am J.R. Perez,
14 Elections Administration for a county in
15 Guadelupe, Texas. Let me give you a little
16 information about an election administrator. I
17 am neutral because the position is hired by
18 three out of five commissioners, and fired four
19 out of five. I have got a lot of autonomy and
20 it makes it easy for me to be independent and
21 implement policy that is not necessarily
22 political and going with the current flow, but

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1 it has allowed me a lot of durability in the
2 trenches. I have been doing it for about four
3 years in the front line. If anybody has been
4 around election like you all have, you know on
5 the front line there's casualties coming and
6 going on a regular basis.

7 I am hoping that I can bring any type
8 of insight to you, in terms of how we handle
9 those incidences of those telephone calls, and
10 how we can hopefully explain the difference
11 between the theoretical concept of election and
12 the actual practicality of election, because
13 there is a great distinction in a lot of
14 people's minds. They don't necessarily
15 understand what we're trying to accomplish, and
16 they have a lot of confusion in terms of how
17 we're doing it, why we're doing it, why it's not
18 living up to the mythical dream that a lot of
19 people put it into.

20 MR. CORTES: Edgardo Cortes. I am an
21 election research specialist here at the EAC. I
22 have been here since July of last year. Prior

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1 to that, I did some campaign work and also ran a
2 national voter registration campaign focused on
3 the Latino community.

4 MR. DONSANTO: I am Craig Donsanto,
5 with the election branch of the U. S. Department
6 of Justice. I have been practicing election law
7 since 1972. I am responsible for overseeing all
8 investigations and prosecutions brought in the

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9 United States at the federal level involving
10 voting and the financing of political campaign.
11 I have a member of the EAC's Board of Advisors,
12 and I have also, as Barry alluded to, done quite
13 a bit of work internationally, both with him and
14 occasionally without him, helping emerging
15 democracies write election laws.

16 MS. SIMS: Thank you.

17 I just want to introduce the woman behind me
18 because they really helped us pull this meeting
19 together. Without their support, we wouldn't be
20 where we are right now.

21 We have got Elle Culver, who is a
22 special assistant to Commissioner Davidson. We 15

1 have got Devon Rome, missing who is an intern
2 working on her masters degree in social science,
3 sociology. Thank you.

4 Laiza, I forget where you are.

5 LAIZA: Soon to begin the masters in
6 political science, which I work in the research
7 department, and I'm going to get to know some of
8 the election officials because I will be
9 conducting a 2006 election survey. So you will
10 get to see plenty of e-mails from myself.

11 MR. ROKITA: Surveys, love them.

12 MS. SIMS: I would like you to tell
13 me, I notice you have served as a legal intern.
14 Tell us where you are in that process.

15 TAMAR: I just finished my second
16 year of law school at George Mason, and I have
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17 been at the EAC for a year.

18 MS. SIMS: Now, I know on our agenda
19 it mentions we would talk about other EAC
20 projects but it dawned on me that might be more
21 appropriate later on, just before we get to
22 ideas for future EAC action, because then I can

16

1 review things that we're already doing. So we
2 won't spend a lot of time and go on to what we
3 still need to do.

4 MS. WANG: I'm going to try and
5 briefly over go over the work we have already
6 done. You got sent tons of material, and I'm
7 not sure if anybody looked at it, but hopefully,
8 you looked at at least the paper summaries of
9 things.

10 The first thing I really want to
11 emphasize about the work that we did, although
12 we split up some of the work, everything that we
13 produced was signed off on by the other person.
14 Everything that you're seeing here is a product
15 in that sense. We agreed on the steps that we
16 would take to produce these materials.

17 And the second point you should bear
18 in mind is, Job and I pretty much worked on this
19 entirely alone, without any support staff. So
20 if you see typos on things, I apologize for
21 that.

22 Generally, the time period that we

17

1 covered in the research we were doing was
2 January 1 of 2001 to January 1 of 2006, all
3 those, Job's cases, went before that a little
4 bit, the reason being, it would be too unwieldly
5 to try and sort through all the materials that
6 came out of the 2000 election because there is
7 just so much, and there's been so much since
8 then that it seems sort of a natural place to
9 begin. And also the Help America Vote Act had
10 been passed subsequently, so it seems like maybe
11 improvements had been made and we should take it
12 from there.

13 The first thing I think on the
14 agenda, that we should talk about the literature
15 and the reports that we went over. We tried to
16 do a review of all the existing research we
17 could find on this topic. I think you have a
18 list of all the pieces that we looked at. On
19 the CD is the summaries we looked at. We looked
20 at a range of things; Government documents,
21 academic studies, reports from advocacy groups.

22 As to how we chose the pieces that we
18

1 reviewed, to some extent, I already had a lot of
2 them and knew about a lot of them because I had
3 been working on this for a while. Other people
4 suggested them and we did searches for anything
5 that we might have missed after that.

6 So just to maybe go over some of the
7 highlights, I don't want to go into the details
8 of the existing literature too much because they

9 are really sort of all over the place. There
10 are a couple things that I will say about them
11 generally that I talk about in the summary,
12 which is, that they are mostly anecdotal. This
13 is no surprise to any of us sitting here. There
14 is really little research that is scientific or
15 systematic, which is part of the reason this
16 project was undertaken. I saw McDonald work as
17 the most systematic, but those probably don't go
18 far enough. And I talked to a number of
19 researchers about this, and I think one thing --
20 and I will get more into this when we talk about
21 the methodologies that I suggested -- this is a
22 very difficult undertaking, I think we all

19

1 realize this. To do it right in any kind of
2 scientific way would require tremendous
3 researches, mother than any academic or advocacy
4 group, that is. It is my personal believe, and
5 I have been told, there probably will be a
6 second phase to this that will maybe commit the
7 resources that are necessary to do it right.

8 The one other thing that I will say
9 about the existing research that we looked at is
10 that I think, by the nature of them, there is
11 very little follow-up. So you have books and
12 reports that make a number of allegations of
13 things that happened in a particular election,
14 but then you don't have the benefit of then
15 hindsight, to see what actually ended up
16 happening in the case. So you have

17 investigations of acts of something happened,
18 but you don't know if that ended up being an
19 administrative error or it ended up being
20 someone just crying wolf. While literature is
21 helpful, it really only takes you so far.

22 Are there any questions about that or
20

1 anything you want to comment about the
2 literature review that we've done?

3 MR. ROKITA: What's our current
4 budget for this project, and why do we think
5 there is going to be a Phase 2?

6 MS. SIMS: Well, Phase 2 would be
7 subsequent to the fiscal year, after we have
8 gone through the final report, that would
9 include the recommendations for future action.

10 MR. ROKITA: So that would be a vote
11 from the standards board?

12 MS. SIMS: I would have to ask the
13 Commissioners that are actually handling the
14 details of that. I'm not sure it actually takes
15 a vote, but generally, it requires some comment
16 by the boards. The boards absolutely have to
17 have input on that.

18 MR. ROKITA: So if I understand, part
19 of our charge here is to give some direction for
20 this phase?

21 MS. SIMS: What we're looking for
22 from the working group is to brainstorm ideas

21

1 for possible future research. We may combine
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2 them into one or we may have different stages,
3 depending on what ideas come up and what the
4 Commissioners think that we can do, and our
5 Boards of Advisors and our Standards Board.

6 MR. ROKITA: So we're supposed to
7 think of these ideas, unbridled by any fiscal
8 constraints?

9 MS. SIMS: Yes. We'll have to worry
10 about the fiscal aspect when we get to that
11 point.

12 MR. GINSBERG: And our commission is
13 all about research.

14 MS. SIMS: We can provide
15 information. A lot of that is done through
16 research. We do research and provide the
17 results of that research to state legislatures
18 and anybody else who is interested. Now, you
19 have to realize, I came from the FEC where we
20 were hidden away. The office, six of us, that
21 was the whole office. Now, we have much more
22 visibility. So it is easier to get the word

22

1 out, get information out, but a lot of times
2 that information is based on research. We do
3 have to have some kind of research before we can
4 pass the information along, in terms of best
5 practices. It could be things -- well, we may
6 want -- I am jumping ahead of myself, but when
7 we get to the ideas on subsequent research, we
8 can talk about some of the findings that these
9 folks came up with, just in this limited

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10 preliminary research, and what we might be able
11 to do with that, or what we might be able to
12 build on that already exists, but yes, we're
13 focusing on research, and that research does end
14 up being distributed via our website or in
15 response to individual inquiries.

16 MS. WANG: Ultimately, it could
17 result in something like guidelines or
18 recommendations or best practices.

19 MS. SIMS: And that all goes up on
20 our website.

21 MR. SEREBROV: We all introduced
22 ourselves. You've got the floor.

23

1 MR. HEARNE: I am Thor Hearne. I am
2 an attorney. I have practiced in the election
3 law area for a number of years now. I have been
4 involved in a number of different litigations,
5 as well as efforts on that front, counsel to the
6 American Center For Voting Rights.

7 MS. WANG: The only thing of
8 substance we have gone over, I was just
9 reviewing the literature that we had reviewed
10 and summarized what you have in your own
11 materials. Also in your materials, you have a
12 list of the people that we interviewed, and on
13 the CD, you have summaries of the interviews
14 themselves. Most of these interviews were
15 extremely informative and very helpful,
16 insightful. We chose the interviewees by coming
17 up with the categories of types of people we

18 wanted to talk to, and filled those categories
19 with equal numbers from each of us.

20 MR. SEREBROV: Unfortunately, not all
21 the people we wanted to talk to talked to us.

22 MS. WANG: Right. But also due to 24

1 time and resource constraints, we came up with
2 an original list, ten miles long, people we
3 would love to talk to.

4 There were certain categories that we
5 had to eliminate. For example, we don't have
6 any local DAs, again which is something for
7 later on that I would definitely advocate that
8 the next phase do. The ultimate category the
9 people we were able to talk to included
10 academics, election officials, lawyers, and
11 judges.

12 There were a few people who didn't
13 want to talk to us, mostly judges.

14 MR. SEREBROV: Although one did.

15 MS. WANG: We got one judge. Again,
16 all the interviews were conducted by both of us.
17 We split up the drafting of the summaries, but
18 they were reviewed and approved by the other
19 person, so they represent our impressions of the
20 interviews, both of us.

21 Just to go over quickly some of the
22 highlights from those interviews that I have in 25

1 the summary that you have of the interviews, we

2 did find pretty much, overwhelmingly, that
3 absentee fraud is the biggest problem, and vote
4 fraud would come in behind that. There was
5 widespread polling place fraud. Dead voting,
6 impersonation voting, there were a couple people
7 who thought that was a problem. Most people did
8 not.

9 In terms of intimidation, the whole
10 issue of challengers pre election and election
11 day challengers, decidedly most often as the
12 current concern in terms of intimidation.
13 However, at some of the more what we think of as
14 classic examples were brought up with us,
15 particularly very starkly in Native American
16 communities.

17 There was also the usual poll worker
18 harassing people, people taking pictures of
19 voting, and that kind of thing. With all due
20 respect to the people from the Department of
21 Justice here, the people we interviewed told us
22 that for various reasons, the Department of

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1 Justice is bringing fewer cases now and is
2 focusing much more on non-citizen voting, felon
3 voting, and double voting, while the civil
4 rights public integrity section is focusing on
5 individuals and isolated instances of fraud
6 issues. And I know you don't agree with that,
7 but that's what across the board, people from
8 all sides of this said to us. That's the
9 perception. As usual, the voting lists were a

10 major concern, although, hopefully, that is
11 being taken care of by the state registration
12 databases.

13 Among the common recommendations,
14 getting back to the point we were just talking
15 about, many of the people we interviewed
16 supported stronger criminal laws, increased
17 enforcement of existing laws. Advocates from
18 across the spectrum expressed frustration with
19 the failure of the Department of Justice to
20 pursue more complaints. Mr. Donsanto told us
21 they were bringing fewer Section 2 cases, but
22 fewer were warranted, a lot had been achieved

27

1 and it wasn't as much as problem. Mr. Donsanto
2 told us election fraud cases had not gone up
3 since 2002, but the number of cases the
4 department is investigating and pursuing has
5 gone up dramatically, and that since 2002, the
6 department has brought more cases against alien
7 voters, double voters, than ever before.

8 In terms of more recommendations, a
9 couple of people suggested some kind of new law
10 that would make it easier to criminally
11 prosecute people for intimidation, even when
12 there is not racial interments involved. People
13 were hopeful about the statewide voter
14 registration databases. People advocated for
15 expanded monitoring of the polls, hopefully, by
16 the department or maybe others.

17 There were a number of people who

18 suggested that the challenge laws needed to be
19 revised in some states. I was surprised to
20 learn, in some states, you can challenge a
21 person with little to no basis for doing so, and
22 really sort of bog up the estimation that way.

28

1 There ought to be some serious look at the
2 various challenge laws, and the ones that have
3 that kind of thing going on that shouldn't be
4 happening. People advocated for the deceptive
5 practices bill currently sponsored by Burrock
6 Obama. There was a surprising split whether
7 partisan administration of elections would be
8 helpful. Some people felt it was a good idea
9 and some people thought partisan people, without
10 the partisan tag. Some academics were
11 advocating for going back to for cause only
12 absentee voting, but that didn't seem
13 politically practical right now. Two people
14 advocated a national identification card.

15 Anything I can answer? The great
16 nexus undertaking adventure. Initially, Job and
17 I came up with enormous search terms that could
18 be used to try and do a nexus search that would
19 come up with every case of fraud and
20 intimidation that happened in the last five
21 years. We determined quickly that would be
22 impossible. We agreed I would do the nexus

29

1 search, trying to be a little more creative,
2 using different combinations of terms that would

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3 hopefully yield the same kind of result. Job
4 approved all of the search terms as I went
5 along. As I collected them, and you have this
6 on your CD, I have them on Excel spread sheets
7 to try and break down the articles so they can
8 be analyzed for patterns.

9 Each fraud was broken down by where
10 it took place, the date, what the allegation
11 was, the news publication it came from, and
12 where there was a follow-up article, whether
13 there had been any subsequent resolution to the
14 allegations. I am currently working on further
15 refining those, and I don't have it to produce,
16 to try and break it down more carefully, analyze
17 it. I want to include sub categories. So, for
18 example, when you're talking about absentee, you
19 have it broken down whether it was forgery of
20 that person's name or something like that. I am
21 also trying to refine it so you can see from the
22 chart who made the allegation, whether there was
30

1 any type of investigation, criminal, civil
2 action taken, whether there ought to be
3 follow-up research to determine what happened in
4 the case. For drawn out, complicated cases, you
5 have a description of the case. South Dakota,
6 Wisconsin, and Washington State.

7 Just to go over the highlights again
8 of the articles, none of this has come as news
9 to you, there are a bunch of ways that absentee
10 ballot fraud is committed. This was one area in

11 news articles, there were a substantial number
12 of official investigations and actual charges
13 filed. In terms of voter registration files,
14 again, you won't be surprised by the variety of
15 ways in which people commit voter registration
16 fraud using fake names, names of dead people.
17 You also have voters being tricked by a
18 particular party under false pretenses and also
19 the description of voter registration forms,
20 depending on your party. There was only one
21 article of a non-citizen registering to vote.
22 And, in general, many of the instances did

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1 include official investigations and charges
2 filed, but from what I found in the initial
3 search, few actual convictions.

4 On voter intimidation and
5 suppression, this is a very thick chart because
6 there were so many allegations during the 2004
7 election, particularly on the challenge issue.
8 Almost none of these cases of intimidation that
9 were claimed in these articles were investigated
10 criminally or prosecuted criminally. And like I
11 said, with respect to the existing literature
12 and the interviews, challenges, that was the
13 number one topic but there was also, again, the
14 classic examples of photographing people leaving
15 the home, police presence, that kind of thing.
16 And also it wouldn't surprise you to know most
17 of these articles came out of battleground
18 states.

19 In terms of dead voter, there were a
20 lot of people voting in the name of the dead,
21 big numbers of people committing these
22 frauds, and relatively view of these allegations

32

1 turned out to be accurate, in terms of the
2 verifications by the newspapers themselves,
3 election officials, and criminal investigators.
4 Often the problem turned out to be the result of
5 administrative error, poll workers mismarking
6 lists with the names of the people who voted.
7 There were a few cases of actual charges and
8 convictions of people voting or engaged in these
9 kind of activities. Interestingly, it seemed
10 that most of those cases involved the person
11 voting by absentee and voting again at the
12 polls. There were a handful of instances where
13 people voted early, and voted on Election Day,
14 although some of that seemed to be confusion
15 about what you are allowed to do.

16 There were a number of vote fraud
17 cases, and these are completely focused in the
18 midwest and the south. And you will see in the
19 vote buying summary that's in there, three or
20 four locations where this seems to be a
21 perennial problem, and it doesn't seem to be
22 that much of a problem in other parts of the

33

1 country.

2 Deceptive practices, we saw a lot of

3 that come out in 2004. You probably all heard
4 about it the fliers, and the phone calls with
5 miss information about voting procedures. A
6 disproportionate number of them from
7 battleground states, in Florida, Ohio, and
8 Pennsylvania, only one case, and this is just
9 from news articles, was actually investigated.
10 That was the case in Oregon where the FBI did
11 investigate the destruction of voter
12 registration forms that were filled out by
13 people and then destroyed allegedly, according
14 to one party, but there were no other reports of
15 prosecutions on this case or on any of the other
16 deceptive practices cases.

17 There were surprisingly few articles
18 about non-citizen voting, something you heard a
19 lot about, but not something that seems to
20 happen very much.

21 On felon voting, there were only 13
22 actual cases, but they all involved rather large

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1 numbers of people. You probably know this. A
2 lot of it is coming out of the Washington State
3 situation and the Wisconsin situation.

4 And, finally, with respect to fraud
5 being committed by election officials, I think
6 that's very hard to judge from news reports
7 because it is very difficult to make that
8 distinction between something was in error and
9 when something was done purposely and with
10 malfeasance in an actual crime. So that's

11 probably not the best way to look at that, and
12 that's what I have for that.

13 And, again, I know this is jumping
14 ahead, but I will say it now because I feel the
15 need to. These search terms that we used and
16 what these search terms came up with, and there
17 may be subsequent articles about these that
18 would go further in telling you how the actual
19 allegation was resolved, whether it turned out
20 to be accurate or not. One of my main
21 suggestions that I will talk about more later
22 on, if there is a next phase of this, that using

35

1 the charts that have already been created to
2 follow up nexus research to see if there were
3 further articles about the same cases to see
4 what happened. Because although I have a slot
5 in there, a column in there for subsequent
6 resolution, you will see it's not filled in very
7 often, and that's it.

8 And if there are any questions.

9 MR. ROKITA: Can you just review for
10 me what the purpose of gathering all this was,
11 in relation to our statutory guideline here?

12 MS. WANG: Well, we're trying to just
13 sort of get the lay of the land on this issue.
14 And, obviously, doing the nexus search alone
15 would not have provided that but we felt it
16 would be one useful tool in trying to do an
17 initial gauge of what's going on, also,
18 including the interviews, including the existing

19 research and the cases that Job will be talking
20 about.

21 MR. ROKITA: And the interviews we
22 had, we asked them for their ideas for

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1 developing nationwide statistics and methods of
2 identifying or developing ways of identifying or
3 deferring, investigating voter intimidation, or
4 did we just try to get color from them as to
5 what the main issue was?

6 MS. WANG: No. We asked every single
7 person we talked to what their thoughts were on
8 how to improve the system, what ought to be done
9 to reform it and solve some of these problems.
10 It was an open-ended question. We didn't say do
11 you favor the development of national statistics
12 or something.

13 MR. ROKITA: Or how you would do it.

14 MS. WANG: That I will talk about
15 later. We limited that aspect of it to talking
16 to people who were basically political
17 scientists, who I think are in the best position
18 to tell us what is a scientifically sound method
19 for trying to get some kind of accurate take on
20 this.

21 MS. WANG: Chandler Davidson, and I
22 have the list with me. It talks about other

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1 political scientists for the methodology issue.

2 MR. SEREBROV: Aside from DOJ cases,
3 closed DOG cases, which were put in a separate

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4 chart initially, I came up with a laundry list
5 of search terms, and then Tova looked at that
6 list and added another list of search terms.
7 So by the time we got it to the Commission to
8 run the electronic search, the terms were
9 probably two pages long. And what, in essence,
10 we came up with was the first hundred cases for
11 each term. The result was about 44,000 cases
12 that I had to go through and ferret out, and
13 these were both federal and state cases, federal
14 where both a felon, and the district cases,
15 state cases were only appellant cases. These
16 were all cases that impact on some aspect of
17 voter fraud or voter intimidation. What emerged
18 from this was almost striking because there were
19 very few cases of the 44,00 cases or so that
20 actually were on point. And the ones that are
21 on point sometimes repeated categories. They
22 are all in these chart forms.

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1 what I suggest is done in the next
2 phase is to concentrate on finding cases on the
3 state district court level, because it seems
4 like on a state level, a lot of voter fraud
5 cases are brought there and end there. And you
6 get a lot of information out of those cases, but
7 they are never appealed, so you never get
8 anywhere beyond that.

9 Without having to just go through
10 this and verbatim read, the patterns have
11 definitely shifted from outright stealing of

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12 elections in the past to different kinds of
13 problems, voter registration, identification,
14 ballot counting, overseas ballot problems, vote
15 buying, challenges to felon eligibility to vote.
16 And those were really the main categories that
17 went into the charts. And what I was surprised
18 to find is that out of each search term and the
19 cases under it, we had literally dozens and
20 dozens that were inapplicable. Oh, and I need
21 to add a caveat, in general, not all the time,
22 but in general, when we had an election

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1 challenge case, in other words, someone lost an
2 election and they were challenging, we almost
3 always threw those out, unless they presented a
4 unique situation that directly was impacted by
5 the search term itself. In other words, if it
6 wasn't just -- I won, you lost, but the reason
7 was because there was X fraud done.

8 MR. SEREBROV: Right. So we threw
9 out 99 percent of those cases. What we have are
10 a number of charts with few cases, surprisingly
11 few cases. And my suggestion at the next phase,
12 they do a nationwide sampling of state cases on
13 the district court or circuit court level to
14 find out really what's going on.

15 Any questions?

16 MS. SIMS: No questions from the
17 attorneys?

18 MR. ROKITA: How would the sampling
19 be done.

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20 MR. SEREBROV: Good question. What I
21 think you need to do is actually go, pick both
22 large counties and small counties, and you need
□ 40

1 to go to the counties and you actually need to
2 run the records, and you need to go back a
3 certain amount of years and start looking at
4 those files. You're looking at a lot of work, a
5 lot of money going into this, but what we found
6 at that level is inadequate to draw conclusions,
7 unfortunately.

8 And as Tova said, I asked four
9 different Supreme Court Justices to give us
10 interviews. Three of them were afraid because
11 this type of case may come up again.

12 MS. WANG: Although not really too
13 much.

14 MR. SEREBROV: No, but it was very
15 helpful in some other areas.

16 MS. SIMS: We're five minutes ahead
17 of schedule. I don't know if you want to go
18 through this definition or the findings first.
19 Let's do the findings, I guess, first.

20 MS. WANG: So the next thing on the
21 agenda is to hear back from all of you about
22 your perceptions, given the research that we
□ 41

1 did. I know that all of you have tremendous
2 backgrounds in this, and we all come out with
3 different experiences, but I think today it

4 would be helpful to focus -- the first question,
5 I guess, is basically, given the research and
6 the findings that we have, what at this point do
7 you think we can say about how much fraud and
8 intimidation there has been since the 2000
9 election, and how much are certain frauds being
10 committed as opposed to others?

11 what is your sense of what the
12 landscape is, anybody?

13 MR. WEINBERG: I have a question to
14 you. Given all this work that you have done,
15 and it's a lot of work, what do you think is
16 missing?

17 MS. WANG: That's what I need to ask
18 you.

19 MR. SEREBROV: That comes later, we
20 ask you that. We have talked about this.

21 MS. WANG: We have talked about steps
22 for further action, but are you thinking of

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1 something specific?

2 MR. WEINBERG: Do you feel like
3 there's areas of information that exist that you
4 just didn't get to or do you feel like you, in
5 your breath of what you did, sort of captured
6 the information that's available out there?

7 MS. WANG: Well, I think we will talk
8 about this when we talk about further steps.
9 They are kind of interrelated, but I feel like
10 in terms of the nexus articles and the
11 literature, I want follow-up on all of them

12 because a lot of them came out of the 2002, 2004
13 elections where there was a lot thrown around.
14 A lot of statements are made.

15 One of the things that we said about
16 the literature is that the books that are
17 written are of the least use because they have
18 written by people with agendas on both sides.
19 Allegations are made of things happening. And
20 even I started to do just like for fun kind of
21 looking at the allegations made at some of the
22 books and reports, and doing my nexus search,

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1 and Google search, and finding out a month later
2 there was a completely opposite allegation than
3 what was suggested in the book on the report.
4 That's what I feel like is missing because
5 that's how the misinformation that's out there
6 about what's really going on seems to be, is
7 that people make a certain assumption right
8 after Election Day, and I will tell you
9 something, and this is sort of going off point,
10 but I think actually journalists are actually
11 somewhat responsible for this themselves.
12 I know this will amaze you that journalists can
13 be -- I'm trying to work on a separate project
14 and they will write an article. There was X, Y,
15 and Z, happened on Election Day, and then it
16 turns out three weeks later that actually
17 something completely different happened, but
18 they don't report on that. Or it's like this
19 side, the first one was on the front page, not

20 that this is particularly relevant. I am trying
21 to get a grant to do journalist training
22 seminars on these issues to try and solve some

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1 of the problems, but almost everybody does it.
2 I mean, the stuff that lawyers committee comes
3 out with, great. The ACVR came out with its
4 report, but that's a snapshot in time, so
5 whatever happened did not turn out to be true.

6 MR. SEREBROV: One thing we left out
7 were allegations. We did not handle any
8 particular allegations.

9 MS. WANG: It was too much.

10 MR. SEREBROV: And that's something
11 that in the next phase, we may want done.

12 MR. HEARNE: What's the distinction?

13 MR. SEREBROV: We handled things that
14 have become legal issues that went to trial.

15 MS. WANG: That's not really true.
16 The articles is just everything that came out.

17 MR. HEARNE: It sounds like your
18 search would pick up somebody alleged something,
19 it gets reported in the paper. That would be
20 picked up.

21 MS. WANG: What's in the charts, as
22 you have them in and out. There is a category

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1 for subsequent resolution. As I am suggesting,
2 what I would love to do actually, if we had the
3 resources today, is now do a new nexus search
4 that would specifically search for those cases

5 and see what the follow-up was. I was limited
6 because we had an agreement on what search terms
7 were. I couldn't go beyond that to look
8 specifically to see if there was in this case
9 some kind of further reporting.

10 So it was an allegation. Obviously,
11 the cases were more official than that.

12 MR. SEREBROV: When we discussed this
13 in the beginning, we were not going to deal with
14 hundreds and hundreds and hundreds of
15 allegations out there, except the nexus
16 articles. That's something that one may or may
17 not want to deal with. It's very tricky. You
18 have to weigh the voracity of those allegations.

19 MS. WANG: And how do you do that.
20 It's a problem we talked about with a lot of
21 people we interviewed, how do you make that line
22 of distinction between what is simply someone

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1 saying something, and something that at least
2 has a kernel of merits.

3 MR. SEREBROV: For instance, we
4 talked to Sharon Priest. She was Secretary of
5 State from Arkansas. She indicated that the
6 State Board of Election Commissioners had
7 fielded, over a certain amount of years, a
8 number of complaints, and they gave those to us
9 but we didn't go through each individual
10 complaint.

11 Now, that's something that may or may
12 not be a valid thing, but if states keeps those

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13 complaints on file, if they are categorized, if
14 there is enough information, that may or may not
15 be something that one wants to do. It's almost
16 an adjusting linkage. The problem is people
17 call in all the time, as Peggy well knows.

18 when I was an election commissioner,
19 people called in and complained about everything
20 from my dog was stealing votes to --

21 MS. WANG: Or my dog voted.

22 MR. SEREBROV: Obviously, the

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1 machines have been frauded out, and where do you
2 draw the line between a valid one and non-valid
3 one.

4 MR. PEREZ: I realize I am a resource
5 person but I'd like to make a comment. I was
6 very skeptical before I came to this group
7 because of the issue, but I agree wholeheartedly
8 with your research. I am glad you did it. The
9 summaries, I think, were right on, and your
10 notes here about structural forms of
11 disenfranchisement and internal abuse of the
12 system, you're hitting right on the key here.

13 Most of the issues are not that
14 somebody is stealing votes. It's just that poll
15 workers are not trained properly. We see this
16 time and time again. I am glad to see that
17 you're coming out with the same conclusions that
18 we have on the front line. It's not so much
19 that there is a conspiracy. You're going to
20 have vote buying. You're going to have some of

21 the things, but generally negligible, not enough
22 to alter things. And if there is, they need to 48

1 be prosecuted and come up with stronger laws.
2 But those of us that do this time and time again
3 can see where people have just missed the boat
4 in preparing either the people, the equipment,
5 the programing or something, and the obligation
6 should be laid squarely on the election
7 official, not on the equipment.

8 MS. WANG: Or the voter.

9 MR. PEREZ: Or some other type of
10 issue. we're playing the process on their
11 shoulder, and not necessarily training them
12 properly. So I am glad to see you're
13 researching.

14 MS. WANG: Actually, I think I
15 skipped over it but I was talking about the
16 interviews. One of the most common things that
17 was said was, generally, poll worker training,
18 that could be the number one key to solving the
19 problems we're talking about, and also longer
20 voting times, and maybe having days other than
21 Election Day that you can vote, not necessarily
22 in terms of early voting, but like weekend 49

1 voting. Maybe combine this with fewer voting
2 locations, because the thought was that you
3 could then have the best and the brightest of
4 the poll workers. That's something for another

5 study.

6 MR. SEREBROV: They are actually
7 doing that in Arkansas. I didn't even know we
8 had Saturday voting. We crossed a poll that was
9 open, so I went in and voted. They have opened
10 several, not a lot, but a few polls for Saturday
11 voting.

12 MR. GREENBAUM: Would it be fair to
13 say that taking up the issue of intimidation
14 that you're finding suggests that most fraud
15 occurs outside of the polling place?

16 MS. WANG: I would say yes, right.
17 It's absentee ballot fraud which is troubling
18 because there is this huge movement to expand
19 that, frankly. And so while I think this is
20 also probably going beyond what we're supposed
21 to be talking about right now but, why not,
22 everyone else is doing it. That is a political

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1 issue that I think is not going to go away.
2 People seem to be pushing relentlessly for mail
3 voting or more absentee voting, on both sides of
4 the spectrum actually.

5 MR. GREENBAUM: I am including, when
6 I say fraud, I am including all deceptive
7 practices, the fliers, the calls, all of those
8 things that came up during election process in
9 2004.

10 MS. WANG: No. Well, there were
11 people talking about poll workers engaging in
12 fraud. Are you saying taking away the voter

13 intimidation?

14 MR. GREENBAUM: I'm saying take out
15 the voter intimidation issues, in terms of the
16 issue of fraud, in terms of the other things on
17 both sides, whether you're talking about voters
18 committing voter fraud or whether you're talking
19 about actions that are designed to keep voters
20 away, from deceptive practices, tearing up
21 registration forms, those sorts of things. Most
22 of that is happening outside of the polling

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1 place.

2 MS. WANG: I would agree with that.
3 That's what almost everyone says.

4 MR. ROKITA: Thank you. I'd like to
5 have a little bit of discussion around before we
6 go too far down, subsequent matters, because I
7 may be a little bit confused, figure out what
8 our enabling legislature is here. I am reading
9 the cover letter of my invitation, and I'll read
10 it into the record, if you will bear with me.
11 "Section 241 of the Help America Vote Act of
12 2002 requires the EAC to conduct research on
13 election administration issues."

14 Yes. Among the tasks listed in the
15 statute is the development of the nationwide
16 statistics and methods of identifying,
17 deterring, investigating, voting fraud in
18 elections for federal office, 241(e)(6), and
19 secondly, ways of identifying, deterring, and
20 investigating methods of voter intimidation,

21 241(b)(7).

22 And this kind of goes to the reason I
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1 asked the question about the interviews. I'm
2 hearing conclusions here about whether or not
3 the EAC is going to determine whether or not
4 there is voter fraud and where. And the statute
5 seems to point out, it is assuming, whether
6 right or wrong in the statute, Congress will
7 assume voter fraud existed, and it is asking the
8 EAC to develop nationwide statistics and methods
9 of identifying, deterring.

10 MS. WANG: That's what we were going
11 to try to do. We're not making the assumption.
12 We're not saying there isn't fraud. We're
13 trying to get a grasp of where that fraud tends
14 to lie and what types of fraud actually seem to
15 be occurring. I don't think that you can get to
16 the point of identifying these other matters
17 that you referred to in the statute without
18 first doing the research to find out what is
19 going on.

20 MR. ROKITA: It's not a comment on
21 your research, whether it's good or bad, right
22 or wrong, but I am trying to get us focused on
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1 our mission here. From the preliminary comments
2 I am hearing, it's whether or not there is fraud
3 and where it is. And I think what you mentioned
4 in your opening remarks is that we lack
5 statistics. We lack methods for getting to

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6 these statistics. And I would just like some
7 feedback and input from this group as to if they
8 agree or not that that should really be the
9 focus, more developmental ideas how to get the
10 information, rather than opinions of
11 interviewees.

12 MS. WANG: This is an initial
13 methodology. This combination of not just
14 interviews but nexus of the cases is an initial
15 step in a methodology. Later on, I will be
16 going through with I found with the political
17 scientists, further findings from more
18 scientists with the methodology that can be
19 added on to what we have already done. That is
20 the next layer up.

21 MR. SEREBROV: The other thing you
22 have to understand is we were limited in both

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1 time and funds. So what we were able to
2 delivery is just a peek at what's going on.

3 MS. SIMS: It is only intended a
4 preliminary research so we can decide how might
5 we get to the next step, and that's why we need
6 you in here to help us.

7 MR. SEREBROV: One area that we
8 didn't touch that we were told don't touch is
9 complaints or potential fraud having to do with
10 computer voting with the machines themselves.

11 MS. WANG: Thank God.

12 MR. SEREBROV: That's true. That's a
13 can of worms.

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14 MR. HEARNE: I wasn't here the first
15 15 minutes. My cab driver was somewhat lost,
16 but that being said, so I didn't get the
17 opportunity to hear exactly what the discussion
18 was about the work product. At the end of the
19 day, we have an objective of producing
20 something.

21 I understood todd to be saying what
22 we're supposed to be producing is given what

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1 information we have and the consensus within
2 this group, what is a methodology for tracking,
3 quantifying, and reporting these kinds of
4 incidences going forward.

5 MS. SIMS: Well, you may not even
6 have to come up with a methodology. What we're
7 looking for, how do we meet this requirement.
8 Or as I said, we also serve as a national
9 clearinghouse for the administration of federal
10 elections. There may be things that relate to
11 this that we should be looking at, that relate
12 to the issue of voting fraud. There may be best
13 practices in certain areas that we maybe should
14 be looking at that we haven't already started to
15 look at.

16 MR. HEARNE: So the EAC is coming in,
17 the working group says, give us some ideas.

18 MS. SIMS: Where we need to go.

19 MR. HEARNE: Tracking as we go
20 through.

21 MS. SIMS: Please don't use a
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22 four-letter word when you say where we need to 56

1 go.

2 MR. BAUER: You made a comment. Did
3 you have a concern about consulting experts?
4 You were concerned we were talking to experts,
5 getting opinions from experts, or you thought it
6 was a methodological approach.

7 MR. ROKITA: I'm just trying to
8 determine what our mission here is at the core
9 level and whether it should be making a
10 conclusory report as to whether or not something
11 exists, or is our mission more plain language,
12 the development of the methodologies that would
13 lead to something like statistics and
14 methodologies, not an amalgamation of opinions
15 as to whether or not voter fraud exists and
16 where it is. Because we could keep adding to
17 that, then we're putting the EAC -- or EAC is
18 going to be in a position of saying -- of adding
19 to the universe of opinions.

20 MS. WANG: These are actually not
21 just opinions. If you look at the people we
22 spoke to, there were election officials. 57

1 MR. ROKITA: All of whom have
2 opinions. Yes, I understand.

3 MS. WANG: Well, opinions based on
4 actual experience.

5 MR. BAUER: That's what my question

6 was.

7 MR. SEREBROV: But it is a method of
8 identifying election fraud.

9 MS. WANG: Any political scientist.
10 And if you look at the methodologies that were
11 suggested to me, every single one of them talks
12 about interviewing a range of people involved in
13 the process.

14 MR. ROKITA: These might be
15 experiences.

16 MR. SEREBROV: We originally had a
17 political scientist on this group, a third
18 person who had to withdraw, and that is Steve,
19 who we actually interviewed after.

20 MS. SIMS: He can speak for the EAC
21 that we're not expecting the group to say there
22 is or there is not fraud. We're not expecting

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1 that. I think we know there are instances of
2 it.

3 At this point in time, what we're
4 trying to do is get a handle on how we can
5 develop nationwide statistics, and investigating
6 voter fraud and voter intimidation.

7 MS. WANG: To know how to investigate
8 and deter fraud and intimidation, you have to
9 first get some sort of a grasp as to what the
10 actual problems were, and where your energy and
11 resources ought to be focused.

12 MR. ROKITA: Yes, you have to do
13 that. I am not basing things after our

14 experience, but we don't know that this
15 experience is a fair sampling of what's out
16 there. And as I read those interviews and what
17 I heard you say at the beginning is we don't
18 have statistics. So, in essence, even these
19 experiences are based on non-quantifiable
20 experiences and things that might have happened,
21 and opinions.

22 MS. WANG: That's a major question of
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1 this project, is any of this quantifiable. I
2 don't think you're ever going to come up with a
3 number, so how do you get at it?

4 MR. ROKITA: That's a fair agenda
5 item for this discussion. Maybe at the end of
6 day, we decide we stop spending taxpayer money
7 or it's going to be too much to spend to find
8 that kind of data.

9 MR. SEREBROV: I think we're going to
10 find that's the answer.

11 MR. ROKITA: Otherwise, we will stop
12 it here and recognize there is a huge difference
13 of opinion on that issue of fraud when it occurs
14 is obtainable, and that would possibly be a
15 conclusion of the EAC.

16 MS. SIMS: I don't know if the EAC
17 would come to a conclusion like that. Again,
18 it's all going to have to go back to the
19 Commissioners and they are going to have
20 discussions about, what they can pursue in this
21 area, but here are a couple things that I am

22 looking at. This is just from being in this

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1 field a long time. It may be difficult to -- I
2 don't think it's going to be impossible to get
3 exact statistics on voting fraud.

4 Can we take another step and get
5 better statistics on voting fraud, that is one
6 question. The other question is, is there a way
7 of identifying at this point certain parts in
8 the election process that are more vulnerable,
9 that we should be addressing.

10 MS. WANG: That's what I am trying to
11 say.

12 MR. GINSBERG: I guess I am curious
13 about why there is some academic work being done
14 about this when, in fact, in six months, you
15 have got the ultimate laboratory. Why would you
16 not come out with some sort of methodology to go
17 into all the polling places where there may be
18 an issue, with what amounts to a bipartisan
19 team, and take a look at it.

20 MS. WANG: That was actually in a
21 couple at least of the suggestions of
22 methodologies from the political scientist, but

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1 imagine the resources that it would take to get.

2 MR. GINSBERG: Truthfully, minimum.
3 I admit that my background and prejudices are
4 probably not where the political scientist's
5 are, as an academic matter.

6 MR. BAUER: Ben is a former
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7 journalist.

8 MR. GINSBERG: In the last election,
9 for example, in the Republican Party and the
10 Democratic Party, there were pretty good
11 samplings of precincts that had a Republican and
12 Democrat, probably 10,000 precincts around the
13 country more or less. Why would you not have a
14 Republican and a Democrat in each one of those?
15 With all due respect to the voters, a lot of
16 those groups are going to be perceived as
17 partisan, but I mean --

18 MR. GINSBERG: Maybe perceived but to
19 make it valid, you need to have representatives
20 of the parties conducting this and taking a look
21 at precincts, any precinct anybody wants in the
22 country where you're thinking there may be

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1 intimidation, where there may be fraud. And
2 instead of turning it into some sort of
3 political charge pre election, actually have
4 observers from both parties in the places where
5 this is most likely to occur, and see if it
6 occurs and how it occurs.

7 MS. WANG: The problem with having it
8 limited to those jurisdictions where you suspect
9 that it's very likely bad things will happen is
10 then you have a skewed result.

11 MR. GINSBERG: Well, I think you I
12 said any precinct anybody wanted to put people.

13 MR. GREENBAUM: Which sometimes you
14 don't know there's going to be problems. who

15 knew that Dilluth, Minnesota. We certainly had
16 no awareness that Dilluth, Minnesota was going
17 to be an area where Indian voters were going to
18 get intimidated at the polls.

19 My other concern is, a lot of times,
20 that is things outside of what either party
21 cares about. Sometimes there are maybe in
22 places where you have partisan elections that

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1 are going to be very close. Sometimes the
2 issues involve nonpartisan elections.

3 MR. GINSBERG: I don't disagree with
4 that. It can be any place where anybody
5 perceives a problem.

6 MR. SEREBROV: But one of the
7 questions was absentee ballots, how do you deal
8 with absentee ballots at a polling place.

9 MR. HEARNE: I think Ben's discussion
10 is a good one. The point he is saying, we have
11 a great laboratory coming up in terms of an
12 election. We can go back through next Tuesday,
13 that is all variable. I'm not saying it's not
14 at all, but the concept of being able to say
15 here's an election upcoming we're developing.
16 If you're going to need to develop some
17 methodology to study it, you can develop the
18 methodology looking forward to the event.

19 MR. SEREBROV: wouldn't it be better
20 to wait for 2008?

21 MR. HEARNE: If you look forward to
22 that, and take the two stakeholders in the

1 election, which are going to be the party -- the
2 two parties, and figure out a way where you find
3 your hottest, most concerned polling places, we
4 will find the ones. You could do some
5 statistical analysis, find out ones that have
6 the greatest aberration, and try to identify
7 them, whatever way you want to do it.

8 MR. BAUER: If I may, this is
9 probably not the first time I have made an
10 unwise suggestion. I think from a whole host of
11 respects, it is very, very difficult to sell.
12 First of all, I don't think the American public
13 is going to want an election system where two
14 parties are involved in the election system.
15 Secondly, anybody who's served the parties would
16 know how quickly they will arrive at
17 understanding workers in polling places.

18 I tend to get along with Republicans,
19 but I doubt this would be anything other than
20 attractive and efficient controversial effort.

21 And the last point I would make is,
22 you're introducing a variable into the very

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1 thing you want to study. If you announce
2 political parties are going out into the field,
3 you're going to affect behavior and you're going
4 to end up changing the subject you are
5 undertaking to study. It is not scientific,
6 will have zero credibility, and it is not what a

7 U.S. Government enterprise should go through.

8 MR. GINSBERG: The point was, you're
9 not looking to monitor the sanctity of American
10 elections. What you're looking for is valid
11 data to collect. And part of the problem that I
12 think you've got with the data you're collecting
13 is you're not sure how true it is. You are not
14 sure how much is political charges. You are not
15 sure, as you said, it is the charge that is made
16 one day all over the front page but straightened
17 out three weeks later. This is for data
18 collection purposes. This isn't about
19 monitoring the sanctity of the election.

20 MR. BAUER: The data collectors don't
21 have any credibility. The two major party
22 organizations in this country are not neutral

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1 collectors of data. Everything they are going
2 to collect is going to be collected in a
3 partisan way. That is true on your side. We're
4 not going to be able to persuade anybody that
5 this is anything different.

6 MS. WANG: We already have -- the
7 Department of Justice has a major observer
8 program.

9 MR. WEINBERG: The article lays out
10 exactly how the justice department finds the
11 polling places to put observers in. And it also
12 collects examples of the observer report fields.
13 So this -- and internationally, those of us who
14 have done international stuff know we do pretty

15 much the same thing, and they use pretty much
16 the same kind of forms. The fact of the matter
17 is that I think you can get a lot of data, you
18 can get it on a form. And the fact that people
19 are two different political parties doesn't mean
20 they are going to try to lie on forms. If it
21 does, things are pretty sad.

22 The other thing is that you do affect
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1 the election, and that's not bad. One of the
2 great, great saving graces of the observer
3 function is it opens everything up. You have
4 transparency. First time you don't have people
5 wondering what's going on in the polling places.
6 You have people knowing what is going on in the
7 polling places. And there's ways to control
8 them. They can sit in particular places. If
9 they have complaints, they can complaint to the
10 precinct chair.

11 There are things that you can do and
12 there are ways to organize it, and you can
13 figure out which polling places, what goal
14 you're trying to achieve that you can get
15 information. If you get it every election,
16 every year for the 25 years, I have seen and
17 it's doable. Will it take a lot of people,
18 sure. Take organizing, yes, but you know,
19 organizing is what you want, if you're going to
20 get data. Is it going to be scientifically
21 reliable, I don't know. I don't know if there
22 is anything that can be done, having read all

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8 access in the polling place. This is a problem
9 for us in law enforcement. We can know that
10 something is going to go on. If we were told
11 something was going to go on in Polling Place 3
12 in ward 4 in Chicago, we could send somebody in
13 there. I guess we could. Bad example.

14 MS. WANG: That's the recommendation
15 that we come out to change or encourage states
16 to change that.

17 MR. DONSANTO: But in terms of your
18 ability to employ something now, it's an
19 obstacle you have to overcome.

20 Secondly, and I think Barry touched
21 on this --

22 MR. SEREBROV: Maybe we'd overcome it
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1 if you get a candidate to appoint you as a poll
2 worker.

3 MR. DONSANTO: Then you get into a
4 position where you're skewing data. That's
5 where you're politicizing more so than just a
6 party watcher.

7 MR. SEREBROV: You can get the
8 parties to authorize you.

9 MR. DONSANTO: In Virginia, they
10 don't have poll watchers in Virginia. If a
11 candidate were to try to put a poll cashier in
12 Virginia, he would be kicked out, and most
13 states follow that rule, whatever.

14 The other thing is that I think it
15 was brought up early on in what you all

16 presented here, the types of things that go
17 wrong inside polling places are really not
18 representative of the uniform of things that go
19 wrong. The types of things -- there used to be
20 a time when election fraud was committed by poll
21 officers who just stole elections, but during
22 the past 30 or 40 years that I've been watching

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1 this stuff, the election administration business
2 has become more professionalized. And when you
3 have a professional sort of approach to the job
4 of administering elections, although there may
5 be something there that is representing a
6 political party, your loyalty goes beyond that
7 to the process. And it's becoming extremely
8 rare, extremely rare today, to find polling
9 officials that are complacent in election fraud,
10 whereas 30, 40 years ago, it was not unusual at
11 all.

12 So you know the kind of methodologies
13 that you've been talking about are not, for
14 example, going to allow you to capture
15 information on things that take place at the
16 polling place. It is not going to allow to you
17 capture information on intimidating voters,
18 absentee ballots. The situation is very hard to
19 measure.

20 MR. WEINBERG: It will give you
21 information on the difference in treatment of
22 voters that happens frequently, and it will give

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1 you other information about what happens as far
2 as the process, and whether the process is being
3 followed.

4 Professional balloting is a huge
5 question that's come up. Nobody knows how that
6 works anywhere, and whatever happens to those
7 ballots, I mean, come on. There are things that
8 you can learn about problems that contribute to
9 the distrust of the election process, even
10 though you probably wouldn't see a whole lot of
11 direct fraud.

12 MS. WANG: Again, the provisional
13 ballot is an interesting issue to raise.
14 Michael McDonald, who worked on the election day
15 study, he and I have talk about this a lot.
16 Section 203 covered jurisdictions, there was
17 more use of provisional ballots than in any kind
18 of jurisdiction. Can you start to draw
19 conclusions from that? So that's another thing
20 that you can look at.

21 MR. WEINBERG: I'll just interject
22 one more thing. There is the re-authorization

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1 of the Voting Rights act, that what we ought to
2 do is cut loose the observing from the
3 technically special covered jurisdictions and
4 have them be able to be assigned nationwide with
5 specific criteria, and that would help a lot of
6 the problems.

7 MR. BAUER: Our mandate here is to

8 look at the research. I disagree with the
9 secretary. I think some of the preliminary work
10 is absolutely essential to the credibility, to
11 the thoughtfulness and integrity of the effort,
12 but I don't think that, as I read this, this
13 means that our judgement is that we leave the
14 work that's been done today and create a hybrid
15 project which has as its aim to function as
16 improvement on current observing programs.
17 That's just not our mandate.

18 MR. GINSBERG: So our goal is to have
19 bad elections so we can get good data?

20 MS. WANG: You may be familiar with
21 this work by a woman named Susan Hyde,
22 University of San Diego, doing a comparison

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1 where there are observers as compared to where
2 there are not observers.

3 MS. ROGERS: I'd like to suggest, in
4 addition to party observing, states put their
5 own observing on the ground. When you come into
6 a state, unless you immerse yourself in that
7 state's laws and that state's procedures, often
8 you don't know what you're observing. You don't
9 know if what you're seeing is legal or illegal.

10 We did work with lawyers committee
11 and election protection, and reviewed a lot of
12 their information, sent back edits. We audited
13 some of their training classes and gave feedback
14 to those training classes. We had a lot of
15 community hotline communication on Election Day

16 where they called to tell us what they received.
17 Not everyone does that, but we're unable to
18 quantify what is observed or what is alleged as
19 fraud because the complaint doesn't come to us.
20 It may go to either party and they not share
21 that information with the local jurisdiction or
22 with the state election official.

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1 we've put 80 to 100 observing from
2 the Secretary of State's Office on the ground
3 since 2002. We provide them with radios set up
4 like a little war room. They call us when there
5 is a problem and we immediately have someone
6 there to find out what that problem is. They
7 write up reports, and they are able to take
8 those reports, and we know where we need to go
9 and what areas need to be shored up. This
10 allows us to have the ability to change the
11 process, if something needs to be changed.

12 Another thing, as far as parties in
13 our state, now the parties, rather than having
14 to be appointed as a poll watcher by a
15 candidate, each party is allowed to appoint up
16 to 25 statewide poll watchers. These people can
17 go anywhere they want to go. It seems to work
18 very well.

19 MR. SEREBROV: I wanted to make two
20 points. One was a reaction to some of the
21 comments before. I know Arkansas and lot of
22 southern states, both the parties and the

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1 candidates are allowed to have watchers in every
2 poll. The other thing is, in Arkansas, the
3 Secretary of State doesn't have the statutory
4 authority to do what you're doing in Georgia. I
5 wish they did. It would make my life a lot
6 easier, especially in the past, and it would
7 make Tim Humphrey's life a lot easier, if you
8 knew Tim. But really it's a state by state
9 problem. I don't have a gist -- and this is
10 something we talked about, there was also a
11 sampling of state law in the next phase to see
12 where the bugs are in that system.

13 MS. ROGERS: In Georgia, some of you
14 may know we have a state election board who has
15 authority. I actually yesterday pulled a list
16 of cases that we investigated in 2004. I don't
17 have the 2005 ones on here, but I can tell you
18 right now, of all of these cases right here, the
19 state election board investigated the majority
20 of these were absentee ballots.

21 MS. WANG: well, I wish that every
22 state did what you did, then we could just add

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1 them all up. One thing we found, of course,
2 almost no states do that. Also, we spoke to
3 your successor, John Tanner. And the Federal
4 Government, the Department of Justice keeps a
5 database of what comes in but they will not
6 release that information to us. And they also
7 would not release to us any more than a few
8 dozen of the observer reports, which we also

9 think might be useful.

10 MS. ROGERS: We've seen a high
11 success rate, not in deferring fraud, but in
12 deferring the actions of election officials and
13 poll workers. Those actions where you talked
14 about you can't determine if they are fraud but
15 yet they appear to be a lack of attention to
16 detail. We bring these people up regularly.
17 And when you bring them up in front of their
18 peers, it is a huge deterrence. And you're
19 correct, every case we have brought forward, it
20 has not been an instance of fraud.

21 MS. SIMS: well, I was wondering,
22 before we continue on, because we're already

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1 getting some ideas for possible areas and it
2 might be worthwhile just to put these ideas
3 down, even though I am certainly not looking at
4 this as all one project. Some of these things
5 are not going to be one project, and some things
6 will be more problematic and may not be
7 something we can do right away.

8 For example, for a number of reasons,
9 we couldn't do observers in this fall's
10 election, not the least of which is financial.
11 We probably won't have a budget, '07 budget, by
12 then. But actually, before we go on to this,
13 would it be okay if we talked about the
14 definition of voting fraud. Particularly, I'd
15 like to get into intimidation and suppression
16 areas.

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17 If you don't have copies of that, we
18 can quickly run off some copies. One of the
19 reasons why I think this is of concern,
20 obviously, it would be helpful if we all knew
21 what we meant when we were talking about voter
22 fraud or voter intimidation. As we progress in

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1 terms of what we want to research or how we want
2 to identify it or develop projects to identify
3 and deter and investigate, we have some common
4 ground.

5 MS. WANG: Did people get a chance to
6 look at the definition, and were there
7 objections?

8 MR. DONSANTO: Comments. The
9 definition in the opening paragraph of this is,
10 I think, taken from something that's kind of the
11 operational way that we articulate what voter
12 fraud is as distinguished from the types of
13 things that go on in the process. So that's how
14 we define vote fraud.

15 MS. WANG: It is the sincerest form
16 of flattery.

17 MR. DONSANTO: Well, whatever.
18 However, since half of this program is not
19 directed so much at fraud but focuses on
20 intimidation, I think we need to define the term
21 intimidation. Intimidation is a term that in
22 the context of elections, in my experience, has

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1 no meaning at all. It can mean anything that
2 happens to you in connection with voting that
3 you don't like or that happens to somebody that
4 supports you that you don't like to. And the
5 other extreme, somebody who gets killed or a
6 cross burned on his yard to retaliate against
7 them for having exercised a franchise.

8 The word fraud is a word that
9 connotes criminal. Criminal connotes that the
10 remedy for doing it is to put somebody in jail,
11 to afford that person all the procedural rights
12 given to someone in a criminal trial, including
13 the right to counsel, and obligation of the
14 prosecutor to prove the case beyond a reasonable
15 doubt.

16 when applied to the word
17 intimidation, our research on the laws that
18 exist at the federal level has been that the
19 word intimidate in the criminal statutes means
20 to apply physical or economic duress upon a
21 victim in connection with a voting act. And if
22 you're going to use the word intimidate as you

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1 have in the fourth and fifth bullet from the
2 bottom on your page, I think accuracy would
3 require that you limit it to that.

4 MS. WANG: well, that is to me
5 personally -- I don't speak for Job. See if he
6 agrees with me on this. This is a major matter
7 of concern to me. One of the things that I have
8 been exploring in my own head is the idea of

9 changing that so that you can broaden the
10 criminal intimidation laws on the civil side.

11 MR. DON SANTO: That's a civil side,
12 that's a different issue. That's not fraud.
13 Fraud equals crime.

14 MS. WANG: Well, the question --

15 MR. DON SANTO: Intimidation, there
16 are a universe of activities that can be
17 directed at people in a category of voter
18 suppression which are not fraud, which are
19 directed in the political process. Signs are a
20 good example of that.

21 MS. WANG: I think they are not under
22 the criminal law fraud, but if you think of

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1 fraud, and this is how we perceive fraud,
2 anything that distorts the system, the process,
3 then certainly, keeping people from voting has
4 the same distorting impact.

5 MR. DON SANTO: Yes, I agree with you.
6 The thing that you're leaving out is the word
7 corrupted, to affect an election campaign or
8 affects activities at the poll. Everything that
9 affects activities at the polls is encompassed
10 within your definition, and that encompasses
11 everything that occurs from the nominating
12 process on, criminal activity which is so
13 anti-social in that it warrants the ultimate
14 societal punishment, incarceration.

15 Now, I'm not going to tell you -- the
16 word I am focusing on here is intimidation.

17 There is an entirely another area having to do
18 with voter suppression which we're just
19 beginning to explore. And I give you an example
20 of how we're exploring this is the Tobin case
21 was sentenced yesterday. It was in The Post
22 yesterday. We're trying at justice to find ways

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1 to get at using the statutes, which we have to
2 get at aggravated forms of voter suppression. A
3 maliciously designed denial of service directed
4 at a get-out-to-vote telephone bank sufficiently
5 possessed criminal malfeasance that the person
6 who does something like that should go to jail.
7 Mr. Tobin, who is the executive director of the
8 New England Region of the Republican Party, is
9 facing ten months as a guest of the Attorney
10 General of the United States. Somebody who puts
11 -- maliciously circulates posters that contain,
12 "Republicans vote on Tuesday, Democrats vote on
13 Wednesday."

14 If we could find the people who do
15 that sort of thing, that isn't voter
16 intimidation. That is voter suppression. And,
17 yes, that kind of conduct, if done for the
18 design of deterring someone from voting, ought
19 to be a crime. And I assure you we have
20 investigated every single instance that has been
21 brought to our attention, and every single
22 instance, when we did an investigation, we were

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1 unable to find who did it.

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2 MR. BAUER: I'd like to ask a
3 question. I'm not sure about the distinction
4 between suppression and intimidation.
5 Intimidation is a vehicle for achieving
6 suppression.

7 MR. DONSANTO: You're right.

8 MR. BAUER: In one sense, there may
9 not be any difference in intent or effect.

10 MR. DONSANTO: Right.

11 MR. BAUER: The second question I
12 wanted to ask you, if you deal with this
13 definitional change, if you talk about physical
14 or --

15 MR. DONSANTO: In the context of the
16 term of intimidation, I would limit it that way.

17 MR. BAUER: But intimidation is
18 related to suppression, in terms of Mr. Tobin.

19 MR. DONSANTO: No, his is not an
20 intimidation. That's corrupt suppression.

21 MR. BAUER: Here's my question.
22 Intimidation conducted on a systematic scale for

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1 the purpose of driving people away from the
2 polls has a suppressive nature.

3 MR. DONSANTO: I don't disagree, but
4 the question becomes what methodology they are
5 using to achieve that result.

6 MR. BAUER: The point you made about
7 capping off the physical and economic portion.

8 MR. DONSANTO: As far as intimidation
9 is concerned. Suppression is a broader term.

10 MR. BAUER: Let's talk about that
11 part of intimidation because I think, quite
12 frankly, intimidation isn't done for the
13 psychological joy of the intimidator. It is to
14 drive people away from the polls.

15 Granted, the justice department will
16 be looking to converting it to criminally liable
17 behavior. It has the feel, tone, color, of
18 maliciously interfering with people's lives.

19 MR. DONSANTO: Corrupt. I think I
20 see where you're going.

21 MR. BAUER: What if you have a party
22 that dresses up people in para military so they 86

1 look like military soldiers, and sends them into
2 targeted polling places to yell at voters as
3 they walk in, that they need to produce their
4 IDs, showing it to these people. If you had
5 that on a widespread, organized basis, and it is
6 clearly an intimidating behavior, it is clearly
7 malicious, you wouldn't say that that's outside
8 the range of conduct you would be concerned
9 about.

10 MR. DONSANTO: Under the laws we have
11 to work with today, Bob, that's not corrupt.

12 MR. BAUER: But you think the laws
13 you work with are supple enough?

14 MR. DONSANTO: We're trying to bend
15 the ones we've got to address aggravated cases
16 of voter suppression, and the Tobin case is an
17 example of that. And you know how we do this,

18 if we won Tobin and we get a District Court
19 opinion, although he was acquitted on the 241
20 Count, if we got an opinion from the Court
21 saying the statute applies to this conduct,
22 that's the goal. You can bet the next time we

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1 have a denying of service attack, we're going to
2 attack it the same way. whether we can then
3 take that case and make it apply to different
4 facts, we'll try.

5 MR. BAUER: That's what I wanted to
6 not.

7 MR. DONSANTO: But this is a work in
8 progress.

9 MS. WANG: Does this argue for a new
10 law?

11 MR. DONSANTO: I don't know that is a
12 policy question.

13 MR. HEARNE: Let me ask a question to
14 clarify that, to see where we are right now.

15 You mentioned the Tobin situation. The
16 allegation was often made and sometimes occurs
17 that an organization makes phone calls
18 intentionally misdirecting a voter to the wrong
19 poll, saying you have to bring eight forms of
20 identification, voting is on Wednesday.

21 MR. DONSANTO: That's false.
22 We would investigate that.

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1 MR. GREENBAUM: Craig, can I call you

2 directly?

3 MR. DONSANTO: FBI.

4 MR. GREENBAUM: We did that twice in
5 2004. We had other instances we could have done
6 it. And the FBI, they did not want to
7 follow-up. We had the complainant.

8 MR. DONSANTO: Which field division?

9 MR. GREENBAUM: In Arizona, in
10 Florida. Florida, I think it was Palm Beach.

11 MR. DONSANTO: I'll tell you what
12 I'll do, I am not here to protest or intake
13 cases, but I write an awful FD 302.

14 MR. GREENBAUM: In Arizona --

15 MR. DONSANTO: If you can send me a
16 paragraph on these, I will send it to the
17 district election officer in that district and
18 ask what happened. I won't be able to tell you
19 what they responded to, but I will in fact
20 query. Because what I said is true, if we can
21 find out who does that sort of thing, I am eager
22 to.

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1 MR. HEARNE: Craig, in your opinion,
2 someone making those kind of false statements,
3 is that within what you understand to be
4 intimidation?

5 MR. DONSANTO: If it occurs within a
6 federal election. That is the unique way the
7 laws were written about if it occurs in a
8 federal election, that sort of behavior is a
9 conspiracy to deprive the victim of their right

10 to vote for federal office.

11 MS. WANG: I have to say, in some of
12 the interviews, we have heard similar complaints
13 from the people from the advocacy organizations,
14 that they have sent reams of documentation to
15 the DOJ and not gotten a response.

16 MR. GREENBAUM: We did something to
17 Tanner or to Alex Costa. Alex called back and
18 said, "Talk to the FBI." With two of the
19 instances, we talked to the FBI, and it was
20 clear that they just had no intention of doing
21 anything with it. Frankly, it turned us off
22 after that.

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1 MR. DONSANTO: In Arizona, I am not
2 entirely surprised, but that may be a personnel
3 problem. And it also may be a problem with
4 respect to how your facts fell insofar as the
5 law. It may be the fact that your facts did not
6 produce sufficient leads. These are all things.

7 MR. GREENBAUM: In one case we
8 actually had -- the person actually had the
9 number, because of caller ID and actually called
10 the number back, and someone answered the phone
11 and identified who they were affiliated with.

12 MR. DONSANTO: Right. This occurred
13 in the 2004 general election?

14 MR. GREENBAUM: Yes, it did.

15 MR. HEARNE: I can give you another
16 example that was presented to Congress, and it
17 was not followed up. That was a phone call to a

18 sitting retired Ohio judge in Marion County,
19 Ohio.

20 MR. DONSANTO: We did follow-up on
21 that one.

22 MR. SEREBROV: Yes. There was the 91

1 case I gave you.

2 MS. WANG: You might want to look at
3 the summaries of the interviews, because a
4 number of people have said they have given all
5 this information to the Department of Justice,
6 and they haven't done anything. I am just the
7 bearer of the news.

8 MR. DONSANTO: And the other thing
9 that bears in mind, we cannot prosecute
10 everything. We try to, based on the degree of
11 severity of the event and the need for
12 deterrence.

13 MR. HEARNE: Craig, not to belabor
14 the point but to make sure, in terms of the
15 intimidation, that I think it's very important
16 that we all understand, every election I ever
17 remember hearing about, we have these
18 allegations. And we always hear them and
19 everybody says, well, hey, no one did anything.
20 We're talking about calls to voters, like the
21 Tobin situation. We just talked about the other
22 situation, calls directed to voters trying to 92

1 give them misinformation.

2 what about calls to other people
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3 involved in the election, somebody calling and
4 saying, if you participate as an observer, as a
5 volunteer in an election, that we're going to
6 sue you for doing that, not voting, just
7 participating in the election process.

8 MR. DONSANTO: I'm not going to
9 comment on whether that's a crime or not.

10 That's probably more a statement of fact. The
11 underlying thing is that is communicated, it has
12 to be false. I understand why come people will
13 be appalled of the fact that you intend to put
14 poll observers in their precinct, and say want
15 to sue you.

16 MS. WANG: My understanding is you
17 don't think the way we have intimidation here is
18 comports with what the legal definition is.

19 MR. DONSANTO: I think out of the
20 exchange that I had, I think I have changed my
21 thinking a little bit. Can I run it out a
22 second time, see if it comes out better.

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1 The word intimidate is a word of art
2 that connotes physical or economic duress in
3 terms of criminal behavior, okay.

4 The word suppression is a work in
5 progress. I can tell you it addresses denial of
6 services, actions directed at get-out-to-vote
7 drives. I can tell you it is directed at
8 situations where maliciously false information
9 is communicated to voters to prevent them from
10 voting in election federal elections. change

11 poll places, hiding the poll place, that's an
12 old type of thing.

13 So the point is the extent to which
14 the word suppression can be translated into
15 crime is a work in progress, with certain
16 aspects of it that I have just summarized here
17 being clearly within the definition but not
18 necessarily having those being exclusive.

19 MS. WANG: So is there some
20 particular language that you might suggest?

21 MR. DONSANTO: I think the word
22 corruptly.

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1 MS. SIMS: So the fifth bullet from
2 the bottom.

3 MR. DONSANTO: Intimidating practices
4 involving the use of economic, physical duress
5 to prevent or deter voting activity, and then a
6 separate bullet having to do with suppression,
7 corrupt activities or activities aimed at
8 corruptly suppressing. Corruptly with a word
9 that connotes specific intent. It's kind of
10 like you know it when you see it.

11 MS. WANG: Are we limited to the
12 Department of Justice definition of
13 intimidation?

14 MR. DONSANTO: You can do anything
15 that you want to do.

16 MS. WANG: Because I would rather not
17 have it be limited to economic or physical
18 deprivation.

19 MR. DONSANTO: This is what I am
20 trying to avoid, is that there are some things
21 that happen in the political process that aren't
22 pleasant, and the rent-a-cop scenario is one of 95

1 those, the poll watcher who aggressively pursues
2 his mandate and poll watches.

3 MS. WANG: That's what I'm talking
4 about.

5 MR. DONSANTO: That's not a crime
6 Fraud is a word that connotes crime.

7 MR. GINSBERG: You can't tune your
8 definitions to create a political resolve,
9 unless you want to make a political statement,
10 which is fine, but then let's label it that way.
11 And I hope that if you're going to manufacture a
12 definition like that, you would have precise
13 examples of what you're trying to bring in to
14 this new term you're coming up with.

15 MR. GREENBAUM: Sure. In terms of
16 this type of intimidation, actually the example
17 that Craig gave, the over aggressive poll
18 watcher, there are cases out there where those
19 poll watchers have been thrown out, not
20 necessarily because they committed a crime, but
21 they may have violated a statute.

22 MR. DONSANTO: And that is the 96

1 appropriate remedy for that kind of offense.

2 MR. GREENBAUM: But that's part of

3 intimidation though.

4 MR. GINSBERG: Poll watchers who are
5 being more aggressive than the local people in
6 the polls think that should be intimidating, and
7 that the poll watcher should leave.

8 Where does that fit into your definition?

9 Let's deal with that example.

10 MR. BAUER: Well, I want to go to
11 something you earlier said, which is, we
12 shouldn't be concerned with anything that isn't
13 criminal, that couldn't be established to be
14 criminal. Well, you just said -- Craig said
15 they are -- it is a work in progress to begin
16 with. That is not a boundary that is easily set
17 here.

18 And the second thing, I don't believe
19 that the EAC should announce that it's only
20 dealing with criminal forms of illegal conduct.

21 MR. GINSBERG: You can't stretch
22 definitions to achieve a political result here.

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1 I was referring to the way she was trying to
2 change it.

3 MS. ROGERS: Does the definition
4 include conspiring to do any of these?

5 MS. WANG: That can certainly be
6 added.

7 MR. HEARNE: Let me ask a question.
8 When you use the word intimidation, a lot of
9 people have come to me in different contexts and
10 say, "I find it intimidating when I go in and

11 people with signs are sticking something in
12 front of me."

13 MS. WANG: well, how did you make the
14 distinction in the report that you wrote?

15 MR. HEARNE: well, the report would
16 be somebody trying to prevent somebody from
17 exercising their right. That's a component
18 point. You work into it.

19 MS. WANG: Intimidating practices.

20 MR. HEARNE: I want to bring out the
21 point, it is not just a perception that some
22 hypothetical voter found it intimidating to go

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1 through the process, but it was intended by the
2 person engaging in that act to deny that person
3 their right to participate in the election.

4 MS. WANG: I had specifically wanted
5 and I guess there had been some objection to
6 having violations of the Voting Rights Act part
7 of this definition, but I think Craig said what
8 was the problem. I think there are some Section
9 2 violations and there was an objection to that.

10 MR. DONSANTO: The problem that I've
11 got with their definition is that the word fraud
12 appears in the labelling definition, and I don't
13 know what the Congress meant when it put that
14 word in there.

15 I have been a prosecutor my whole
16 life. To me, fraud is a crime. There is no
17 such thing to me. Fraud connotes, yes, there is
18 civil fraud, but civil fraud, I have always been

19 a believer in the fact that most civil frauds
20 could be criminal fraud. Fraud is obtaining
21 property from another through lying.

22 MS. WANG: Defining elect fraud and 99

1 defining voter intimidation.

2 MR. GINSBERG: Let me go back to my
3 hypothetical. Does the definition of a poll
4 watcher in an unfriendly precinct, who gets
5 intimidated, who goes about his duties under the
6 statute to challenge voters that he or she
7 thinks may be improper, and is intimidated out of
8 that polling place from doing the poll watcher's
9 job, does that fit in your definition?

10 MS. WANG: Well, that goes back to
11 the problem of where do you draw the line
12 between allegations and something that would
13 indicate that there was some merit to it, some
14 sort of investigation or official action, which
15 is a problem that you have in all of these
16 examples, so I can't say this is where you draw
17 the line in this particular instance the same
18 way. I'm not sure how you draw the line when
19 someone alleges that a felon has voted and they
20 should be prosecuted and thrown in jail and it
21 is the case that they did not know where they
22 were not allowed to vote. There is line drawing 100

1 that has to be done that isn't easy.

2 MR. DONSANTO: Couldn't you possibly
3 address this by putting before the preface

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4 something to the effect that the definition that
5 we're providing here is a definition that we're
6 going to be using to define the scope of this
7 project? Most of the activities described here
8 are crimes, but that is not necessarily the case
9 with all of them.

10 MS. WANG: I'm fine with that.

11 MR. DON SANTO: Something like that.

12 MR. HEARNE: Tova, let me make sure
13 your point is one that I agree with, is to say
14 let's look at we're not saying somebody finds it
15 intimidating, but something intimidating enough
16 to prevent somebody lawfully participating in
17 the election process. Do we include just the
18 voter or other people, volunteers, people
19 participating, people driving them to the poll?
20 If somebody wants to drive somebody to the polls
21 and slashes their tires, does that count as a
22 suppression or intimidation?

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1 MS. WANG: Well, you know, we had
2 that case already.

3 MR. HEARNE: When we look at that
4 definition, what are we looking at?

5 MS. WANG: Well, they are in jail
6 now.

7 MR. DON SANTO: That's a Wisconsin
8 case.

9 MR. GINSBERG: What's the distinction
10 between that case and the phone case?

11 MR. DON SANTO: None. We wanted both
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12 of them. We were prepared to take both of them,
13 but we only had enough resources to pursue one,
14 and the District Attorney in Milwaukee agreed to
15 take operation elephant flat foot. That's what
16 it was called. The name of it was called
17 elephant flat foot. Instead of jamming the
18 phone lines of the get-out-to-vote drive, they
19 took the vans that were going to be used to
20 deliver voters to the polls and wrecked them.

21 MR. GINSBERG: Is that intimidation?

22 MS. WANG: It probably doesn't count
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1 because it does distort the ability to vote, so
2 I would guess so.

3 MR. SEREBROV: Well, it's an
4 intentional action, so it's included.

5 MR. DONSANTO: There is corrupt voter
6 suppression, and those guys are all in jail.

7 MR. GINSBERG: And you don't have the
8 federal precedent.

9 MR. DONSANTO: The same thing, the
10 object of the scheme was to deprive the victim
11 of their right to vote in a federal election,
12 the right to vote for federal office. That was
13 the object of it, same way as at the poll.

14 MS. WANG: Are there other comments
15 or suggestions to the definition that we have,
16 other than Craig's?

17 Is this a good time to take a break?

18 MS. SIMS: I wanted to mention that
19 Secretary Todd Rokita had asked about

20 legislative history in connection with these two
21 things. I had done some initial research and
22 hadn't found it to be helpful. As I recall to a
103

1 certain extent, these were, I believe,
2 amendments added on the floor of the House, and
3 I don't know there was a lot of discussion
4 associated with them.

5 MR. ROKITA: Was there any?

6 MS. SIMS: Other than I knew that the
7 voter intimidation was a direct reaction to the
8 voting fraud amendment. What a surprise. That
9 was pretty clear, but there wasn't a lot in here
10 that I could see. The meat of this bill, the
11 discussions took place outside of public venue.

12 MR. ROKITA: If there is some way we
13 can run a quick search on 241 and print off some
14 legislative history.

15 MR. DONSANTO: 241 was enacted in
16 1886.

17 MR. ROKITA: Help America Vote Act.

18 MS. SIMS: We have a volunteer ready
19 to do that, but it may be a good time to do a
20 break.

21 MR. HEARNE: Before we conclude that
22 point, my sense was, is somebody going to
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1 re-work it, are we going to break it into two?

2 MS. WANG: We're going to put this
3 little preface. She got all this down.

4 MR. HEARNE: Is that transcript going
5 to be available to us?

6 MS. SIMS: We can make it available
7 to you, probably 15 days.

8 (Short Recess.)

9 MS. SIMS: As you notice, we have
10 been joined by Paul DeGregorio and our Executive
11 Director, Tom Wilkey, and Julie Thompson
12 Hodgkins.

13 CHAIRMAN DEGREGORIO: Let me, first
14 of all, thank you on behalf of the Commission
15 for coming today and participating in this
16 important working group. We know that Job and
17 Tova have worked for many months now on this
18 project, and some of you together, to discuss
19 this important issue of voter fraud and voter
20 intimidation that is required under HAVA for the
21 EAC to take a look at. And we have taken our
22 role very seriously to do, and believe they have

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1 brought together some of the best people in the
2 country to take a look at these issues and to
3 come forth with some ideas for the EAC.

4 Vice-Chairman Martinez wanted to be
5 with us today, but his father is fairly sick in
6 Austin, so he had to fly back yesterday evening
7 to be with his father and so he couldn't be
8 here, but I've asked our executive director, Tom
9 Wilkey, raise your hand, and our legal counsel,
10 Julie Hodgkins, to join us this afternoon.

11 I know that you all have had some

12 discussions already and we're really just going
13 to listen, not to participate, because we know
14 you are at the point where you're going to be
15 talking about some recommendations and talking
16 about some things that you want to direct to the
17 EAC.

18 so we thought it would be important
19 just for us to sit back and to listen to the
20 discussion so it can help us, as the consultant,
21 to then move forward with recommendations to us
22 in future months. Thank you, again, for

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1 participating. I don't know if you're going to
2 have future working groups of this group, but
3 certainly --

4 MS. SIMS: Not for this phase, but if
5 we have subsequent research, I'm sure that we'll
6 need working groups to help us with that.

7 CHAIRMAN DEGREGORIO: Peggy Sims and
8 I go back twenty years when I was the director
9 of elections in St. Louis County, and Thor was
10 pretty young and maybe still in law school. I
11 remember those days. I used to call Peggy when
12 she worked for the Federal Election Commission
13 in Franklin. Donsanto also goes back many, many
14 years to IACREAT seminars when I used to hear
15 him talk about voter fraud issues throughout the
16 country. We have got some other people in our
17 own staff who are participating in helping this
18 along. Thank you, Peggy, for your work. I will
19 let you go ahead and continue.

20 MS. SIMS: Okay. I just wanted to
21 say as we get into ideas, because remember,
22 we're not just talking about statistics, we're

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1 talking about identifying, deterring, and
2 investigating voter fraud and voter
3 intimidation. Some of that, in my mind, and
4 this is, again, from my experience at FEC, will
5 involve the process and how election officials
6 run the process.

7 We're also working on management
8 guidelines for voting systems. As you may know,
9 the EAC recently released its voluntary voting
10 system guidelines which are used to test voting
11 equipment. Now, we're also focusing -- we're
12 also working on updating those guidelines. That
13 is going to be a constant process, but the
14 companion piece, one that I know Tom Wilkey has
15 urged us to do for a long time, is to develop
16 management guidelines for the management of
17 these voting systems. We're working on that
18 right now.

19 Also, we have a project looking at
20 state vote counting and recounting laws in
21 contested elections. And the effort will also
22 pick up best practices that apply to these

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1 areas.

2 We also have a report that is being
3 -- I guess it is still in the draft stage for
4 provisional voting, and one on voter ID that

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5 might relate to some of these problems that we
6 saw, that may actually relate more to how the
7 process is administered rather than actual
8 voting fraud. But if these processes are
9 administered badly, they can leave open the
10 opportunity for voting fraud.

11 So I wanted to make sure you had that
12 information available before we got into this
13 discussion.

14 MS. WANG: Okay. Well, as I kept
15 referring to earlier, I did talk to a bunch of
16 political scientists and other expert types in
17 the field. You have in your materials sort of
18 summaries of the recommendations that they made.
19 As I said, if ever there was something everyone
20 agreed to, this would be a complex undertaking.
21 I am not a political scientist so I am sort of
22 reluctant to myself recommend any one of these

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1 methodologies over another, which is why I think
2 in Phase 2 it will be necessary to have someone
3 of the nature of the people I interviewed
4 involved in the process, someone who really
5 knows how to do statistical work and do these
6 kind of studies. And there are people out there
7 like that, and I can make some recommendations
8 in that regard.

9 I would note that several of the
10 recommended methodologies, sort of a
11 multi-pronged approach we were getting at
12 earlier, many of them include the elements of

13 conducting more interviews, doing a survey,
14 which I know brings up issues for the EAC, but
15 doing a survey of voters or administrators or
16 both, and finally, analyzing and doing voting
17 list comparisons.

18 So I'm happy to talk further about
19 any of the particular methodologies that were
20 suggested to me but I think I don't feel that I
21 am necessarily in the position to judge which of
22 these is best, and I would be open to any

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1 thoughts you have as to what seemed like they
2 make the most sense.

3 MS. SIMS: The difficulties we have
4 with surveys is because this agency, unlike FEC,
5 is under the Paperwork Reduction Act
6 requirement, which means we have to go through a
7 process which Julie could tell you, if you need
8 to know. But what it does is delays our ability
9 to be able to do surveys quickly because we have
10 to go through this process before we're allowed
11 to conduct surveys.

12 MR. DONSANTO: Paperwork Reduction
13 Act requires you to --

14 MS. SIMS: Make paperwork, yes. The
15 only reason why I bring that up then is if we're
16 going to have surveys as part of a research
17 process, we have to build in time to be able to
18 go through this process to get our surveys
19 approved and ready to go.

20 I know people were already talking

21 about some ideas earlier. I will just go ahead
22 and put them up. I know we had a discussion

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1 about observers, using observers or poll
2 watchers. I'm not making any judgements on the
3 cost of these or our ability to do this. I just
4 want to make sure we put up our ideas.

5 MR. CORTES: In terms of that, could
6 we define when we're talking about observers,
7 what those people actually do in the polling
8 place? I think there's different states have
9 allowed different types of access to people and
10 what they can do there. I believe you mentioned
11 earlier that in Virginia there aren't observers
12 allowed, but they do have people in the parties
13 in there that keep track of who comes into the
14 polling place.

15 So in terms of making those
16 distinctions, if we could get some definitions
17 for these, I think it would be helpful.

18 MS. SIMS: Would we be able to do the
19 definitions or would these be defined by the
20 states?

21 MR. SEREBROV: Part of our suggestion
22 was a survey state wise.

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1 MR. HEARNE: In terms of what I think
2 Ben was suggesting, I think Barry had a concept.
3 What you were talking about, Barry, was sort of
4 the rigorous questionnaire kind of thing that is

5 a uniform observation form that observers were
6 given, with very quantifiable data, that they go
7 in and observe the conduct of the election and
8 report anything based on that sort of standard.
9 That is what you're conceiving. So somebody
10 would say, how many people are registered to
11 vote here, how many machines are in this polling
12 place, how long a wait, how many people came
13 through the line, check off those objective
14 factors, is that what you're thinking of?

15 MR. WEINBERG: Right, whatever else,
16 comments observers want to make on the forms.

17 MR. GREENBAUM: At this point, we're
18 just putting ideas on the table. We're not
19 discussing how we feel about them.

20 MS. SIMS: That's correct. We know
21 we don't have universal support.

22 MS. ROGERS: On the subject of

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1 observers, there seems to be two prongs; one,
2 observers used in the collection of data, but
3 two, observers used as a methodology in
4 deterring fraud, which seems to me to be two
5 different uses of observers, and I wanted to
6 record that.

7 MS. WANG: Let's just talk about the
8 methodology first because I have a list of
9 things that we should do going forward.

10 I am focusing on the methodologies first.

11 what do you all think about doing a
12 survey?

13 MR. DONSANTO: Survey of what?
14 MS. WANG: Well, you could do it a
15 couple different ways. Some of them actually
16 are described here.
17 MR. BAUER: Voter surveys?
18 MS. WANG: Voter surveys, what did
19 you experience at the poll.
20 MR. DONSANTO: Who are the people
21 that would get the survey?
22 MS. WANG: Well, it would be to have

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1 some sort of random survey that a political
2 scientist would know how to devise.
3 The other thing is having observers
4 who either survey voters as they come out of the
5 poll.

6 MR. WEINBERG: But is this a survey
7 to determine fraud or to determine what happened
8 in the poll? What's to come out of this, what
9 is the survey supposed to tell us?

10 MS. WANG: Whether the person
11 participated in -- or who knows how much they
12 will self report, or observed some kind of
13 practice, fraud, or intimidation practice.

14 MR. BAUER: Is this based on the
15 Overton?

16 MS. WANG: Several of the experts
17 interviewed that I spoke to suggested a survey.
18 There was also a suggestion of a more massive
19 survey of administrators that would be much more
20 comprehensive than just trying to do interviews

21 of these people.

22 MR. GINSBERG: How many voters were 115

1 they willing to --

2 MS. WANG: No one was willing to come
3 up with a number. They just said it would have
4 to be big.

5 MR. DONSANTO: It would have to be
6 huge.

7 MS. SIMS: When they referenced
8 election officials, they were talking about
9 local and state election officials.

10 MS. WANG: Well, at this point, local
11 because the state election officials have been
12 easy to have conversations with.

13 MR. BAUER: There is one kind of
14 survey intended to determine whether or not the
15 voters we talked to who say they were registered
16 were, in fact, registered. As Overton
17 described, this is a statistically
18 representative sample of people who purported to
19 report how they voted. And the other one,
20 somewhere, you are basically converting them
21 into eyewitnesses.

22 There are very different kinds of surveys for 116

1 very different purposes.

2 MR. GINSBERG: Did you commit fraud
3 at the polling place?

4 MR. BAUER: Trying to transcend the
5 anecdotal nature of what we do about frauds, it
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6 seems to me -- I am not an expert on polling
7 methodology, but the potential for
8 interpretation of an awful lot of data collected
9 for marginal potential value, it doesn't tell
10 you very much.

11 MR. GREENBAUM: Let me agree with
12 Bob.

13 MS. WANG: Just for the record.

14 MR. WEINBERG: I think a better
15 question would be whether anybody thinks the
16 survey would be useful.

17 MR. DONSANTO: It is for the
18 practical. It might be useful. It is just not
19 practical.

20 MR. GREENBAUM: Except to the extent
21 I am aware of all the things we have on there.
22 How do we capture where most of the fraud's

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1 taking place, which is not in the polls.

2 MR. DONSANTO: Right.

3 MR. GREENBAUM: For the initial, I
4 will state that it's my opinion.

5 MR. GINSBERG: But come up with a
6 list about where you think the fraud is being
7 committed, see if you can come up with a
8 methodology.

9 MS. WANG: There was this bunch of
10 people who independently came up with the idea
11 of picking ten places where you know there have
12 been a lot of problems, and some people where
13 there haven't, make them match geographically,

14 demographically, and try to see where the
15 differences are.

16 MR. GREENBAUM: It's tricky. I know
17 this in terms of some of the stuff I have done,
18 but sometimes you think that places are doing
19 better than they really are, and sometimes you
20 think that places are doing worse.

21 MR. HEARNE: Let me suggest an
22 objective criteria that you might get in the 118

1 first gathering. In Ohio, a lot of allegations
2 were made that voters were intimidated or
3 suppressed, the voter buys, taking older ones
4 and not putting them in others. There was a
5 U.S. House administration hearing, and officials
6 in charge said, no, we had quality distribution
7 based on number of voters. The lines were long
8 in certain areas, as they were in others.

9 MS. WANG: We don't want to get into
10 that particular example.

11 MR. HEARNE: That's the kind of
12 objective observation to be quantified. If you
13 had an observer in the polling place that would
14 be -- ben had suggested a Republican and
15 Democrat in interest. If you had an appropriate
16 sampling of why it was taking this long to vote
17 in this precinct, this long in this precinct.

18 MR. GREENBAUM: That's not even a
19 fraud issue, I mean, not in my mind. And
20 believe me, we have studied the Ohio elections
21 administration very closely, given that we sued

22 the Secretary of State. That goes more to

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1 election administration as opposed to a fraud
2 issue.

3 MR. ROKITA: So it doesn't fit under
4 your definition of fraud.

5 MS. WANG: It depends on whether
6 there was some reason to believe it was
7 intention, in my personal opinion.

8 MR. GREENBAUM: well, the problem in
9 Franklin, Ohio, was determined how the machines
10 were going to be allocated.

11 MR. HEARNE: Let me take that as an
12 example. That is something that undermines a
13 lot of people's confidence in the election
14 process, when somebody is going into the process
15 and saying, we're only going to put one polling
16 machine for every thousand people in this
17 polling place, and fifty of them for 500 people
18 out here. That would be the kind of thing you
19 can quantify. You can find out directly what is
20 the data, what you think you can do that now.
21 We know that now.

22 MR. HEARNE: And that would be

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1 helpful.

2 MS. SIMS: Maybe the question is how
3 do we find out about that now. Right now, we
4 find out through --

5 MR. ROKITA: The states and the

6 counties.

7 MS. SIMS: The states and the
8 counties, and also calls made to the justice
9 department.

10 MR. HEARNE: Or about the lines. You
11 always get this allegation about long lines.
12 Every voter is going to come out with a
13 different perception, and you're always going to
14 have these competing stories about long lines in
15 different areas. If you had some teams in there
16 watching this and timing it, you would get some
17 objective criteria to evaluate those
18 allegations.

19 MR. GREENBAUM: From my point of
20 view, why would you want a Republican and
21 Democrat, why won't you want a college student
22 or someone else that people can agree doesn't go
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1 in there with any sort of biases?

2 MR. SEREBROV: You can't necessarily
3 get a college student in the polls.

4 MR. GREENBAUM: Right. The state
5 laws are an impediment in a lot of places.

6 MS. SIMS: Well, some of these
7 things, like the machine placement, that's just
8 an example. A lot of things I personally see in
9 the press before I see anywhere else. That gets
10 to your following up on some of the press
11 reports to find out whether or not something
12 really happened, but that again is not a hundred
13 percent reliable because we're only getting a

14 bit of the picture. And if you follow-up on
15 those press reports, we may find out that an
16 allegation of fraud was not fraud at all, it was
17 a mistake.

18 MS. WANG: Well, that's the case. I
19 don't know if we can come up with a methodology
20 in here. None of us are political scientists at
21 all either. So I just put these in front of you
22 as the types of things that people came up with.

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1 I think, as we have talked about, it
2 is going to be a combination of approaches which
3 the work that we have already done will be one
4 of those ingredients supplemented by something
5 that political scientists would do.

6 we can get some more ideas flowing.
7 Job and I talked about what we have thought
8 about as being additional steps that could be
9 taken. They are not methodologies but things
10 that we think still need to be done, even just
11 based on what we have already done. Should we
12 move into that or stay on this?

13 MS. SIMS: We can certainly go on
14 because we can come back to this too. One thing
15 I would like to ask folks to consider again,
16 even though we don't have complete data because
17 this is a preliminary study, we do know of areas
18 in the process itself that are more subject to
19 attacks by voting fraud and are the studies EAC
20 can do in those areas.

21 MR. GREENBAUM: Absentee.

1 about absentee ballot. We have talked about
2 observers in the polling place, but the
3 empirical data shows it is absentee balloting
4 fraud, we're poised to see a tremendous amount
5 of that grow.

6 Example, in Georgia, that's happening all
7 over the nation which is now a no-excuse by mail
8 absentee state. In addition to that, it was
9 stuck in our law, it was a caveat that said that
10 political parties could not attach campaign
11 material to an absentee ballot application.
12 That was taken out. It was also ruled that a
13 postage stamp is not a thing of value. So if
14 you put all of those together, we're going to
15 see both parties flooding mail ballots with
16 absentee ballot applications.

17 MS. WANG: Sarah Ball Johnson, who is
18 in charge of elections in Kentucky, we
19 interviewed, talked about the churches gathering
20 people together to collectively fill out their
21 absentee ballot, and being told if they don't
22 vote in a certain way, they were going to hell.

1 MR. DONSANTO: That's probably true.

2 MR. ROKITA: There is an example of
3 something you can follow-up on.

4 MS. ROGERS: We have already seen a
5 huge increase in -- I won't say fraud, but in
6 complaints. This law was in place last year and

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7 we only had municipal elections in November.
8 Not everyone has really wised up to this but a
9 few candidates did, and there was one particular
10 election in Richmond County where going into the
11 run off, the winner was clearly ahead by a lot
12 of votes, and the losing candidate that was
13 down, before he went to the run off, he found
14 out about this little caveat, and he went
15 knocking on every door with an absentee ballot
16 application, and by George, he won, and won big.
17 That's the area.

18 And the problem is that you're trying
19 not to make it harder on those who are disabled.
20 At the same time, you don't want to keep adding
21 levels and layers of security that prevents them
22 from getting the access that they need, but as

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1 you take away those levels of security, it
2 follows on the other side as well. I know we
3 haven't really addressed that, but observers
4 don't take care of that process.

5 MR. HEARNE: You mentioned something
6 that might be helpful in the sense of,
7 statistically, you can look at an election and
8 you can find results that you can look at and
9 say, this doesn't make any sense, how you would
10 get this kind of vote performance out of a
11 particular vocational place or group of absentee
12 ballots.

13 MS. ROGERS: Well, some of the cases
14 we have looked at, they said, look at these

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15 numbers, they don't look good to us. We go in
16 and look at them, and what we find is one
17 candidate pounded the pavement with the absentee
18 ballots maybe didn't commit fraud literally. In
19 Georgia, the candidate did fill out the top part
20 of the form. You can check the box and say I
21 don't need excuse, and you can sign it.

22 MR. DONSANTO: Voter has to sign it.

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1 You can pre print them.

2 MR. HEARNE: You can pre print it
3 with the vote on it.

4 MR. DONSANTO: No, the application.
5 That was a big thing in Florida. Both parties
6 pre printed applications for absentee ballots
7 and mailed them.

8 MS. ROGERS: And one of the biggest
9 problems we see is the fraud is not occurring at
10 the federal candidates. DOJ is not as
11 interested in this.

12 MS. WANG: Well, actually, that is
13 not true.

14 MR. DONSANTO: That's not necessarily
15 the case.

16 MS. ROGERS: I'm not saying you are
17 not interesting.

18 MR. DONSANTO: If it happens in a
19 non-federal election, we don't have the statutes
20 to do anything about it.

21 MR. GREENBAUM: It doesn't have to be
22 a federal candidate.

1 MS. WANG: From the news articles,
2 this is the one type of fraud that is more often
3 investigated, and there are indictments, and
4 prosecutions, and convictions, and guilty pleas,
5 and stuff.

6 So you actually can take a look at
7 actual cases to see how it's being done, and try
8 and come up with better measures to prevent it
9 and catch it. You have Oregon, and they claim
10 that they have no problem. That is disputed on
11 a lot of levels but the one thing we can't know
12 about Oregon is the extent of which the coercion
13 problem happens.

14 MR. ROKITA: You can't know?

15 MS. WANG: Right.

16 MR. DONSANTO: Public voting, every
17 ballot, public vote.

18 MS. ROGERS: Unfortunately, it takes
19 so long to bring these cases to a resolution, we
20 find, time after time, by the time the case goes
21 to an actual court, a lot of these folks no
22 longer tell the same story. A year or two goes

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1 by, and those people who were coerced, they are
2 just not saying that anymore. They change their
3 tune, and then again, many of them are very old
4 and very elderly, and not a hundred percent have
5 all their faculties to begin with, so two years
6 makes a huge difference.

7 I think we see a lot of cases closed
8 simply because you are unable to have the data
9 that you need to follow through.

10 MR. ROKITA: Maybe the EAC should
11 study the methodology of for cause absentee
12 voting as a way to cure it.

13 MS. WANG: That is where you wind up
14 against the politics of it, which seems like a
15 train that's left the station.

16 MR. HEARNE: Your point, if I
17 understand, was in looking at the data where you
18 did find broader, documented evidence of fraud
19 was in the concept of absentee ballots, is that
20 correct?

21 MS. WANG: Yes.

22 MR. HEARNE: So the sense would be is
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1 there a way to study it. And the question for
2 us now is, how do we study that phenomenon.

3 MS. WANG: Given that it's something
4 that is spreading rapidly, are there measures we
5 can come up with to make the ballots more
6 secure. The coercion issue is difficult to get
7 at, but in terms of the forgeries and those
8 types of things, and even actually with the
9 coercion, are there measures that can be taken
10 to make absentee ballots and mail-in ballots
11 more secure?

12 MR. BAUER: One thing I want to go
13 to, what we were just discussing, some of the
14 recommendations.

15 MS. WANG: Bob, you raised your
16 point.

17 MR. BAUER: One of the interesting
18 proposals or suggestions made by the
19 interviewees, his name is Weisner.

20 MS. WANG: Weisner. Wendy Weisner.

21 MR. BAUER: We though that
22 establishing any degree of concreteness on voter
□ 130

1 fraud would be difficult to establish. We
2 suggest that an effort be made to simply -- I am
3 not quite sure exactly what the methodology name
4 is.

5 MS. WANG: Risk analysis.

6 MR. BAUER: Risk analysis, and
7 determine based on the assumption that people
8 act rationally in this area, what we would most
9 expect to see, what kinds of fraud is most
10 potentially likely, and then just rank it. You
11 are not making a judgement there at that point
12 that's, in fact, what is happening. It is just
13 a very interesting way of trying to sort of
14 order your thoughts about what you might be
15 looking for, and it can be marked up with other
16 numbers to bolster their significance.

17 MR. GINSBERG: How could you figure
18 out how you do the risk analysis.

19 MR. BAUER: I don't know, and I don't
20 have any expertise.

21 MS. WANG: I started to get books on
22 risk analysis but I didn't want to read about
□ 131

1 the diseases and environmental calamities.

2 MR. BAUER: Just from a standpoint of
3 debate, what we had in perspective, we find
4 using it to help ask questions was something
5 concrete you can do. I don't think it's a bad
6 thing to do. It is affirmatively a good thing.

7 MR. WEINBERG: I thought that was
8 interesting, although I didn't understand what
9 it said.

10 MR. PEREZ: You're a county clerk,
11 and you are in the ballot. You have got
12 something to gain right away. If you're not on
13 the ballot and you don't work for somebody on
14 the ballot, where is the risk analysis involved,
15 the direct relationship?

16 MS. WANG: Let me try to explain it
17 from the little I understand about it. You
18 take, for example, in the environmental field,
19 if a corporation is trying to decide what
20 measures to takes, how much is that worth, how
21 likely is it that some bad outcome is going to
22 happen versus the cost of preventing it. So you

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1 would sort of do a cost benefit analysis of each
2 type of voter fraud that we have listed. So
3 what's the risk of filling out a fraudulent
4 absentee ballot versus the risk of getting
5 caught, or the penalty involved, the cost
6 involved of doing so.

7 And by going through that method,

8 determining what are the types of fraud that are
9 most likely to be committed, because as Bob
10 says, people are presumed to be rational actors
11 and to engage in those types of activities that
12 they think they can get away it.

13 MR. PEREZ: You're talking about the
14 actual voter. I'm talking about the actual
15 groups trying to get something passed.

16 MR. GREENBAUM: It could be either.
17 You could do it at the level of the voter or the
18 level of an organization.

19 MR. PEREZ: The voter is going to be
20 intimidated, but the organization has an agenda.

21 MR. GREENBAUM: But I think some
22 people here would say that a portion of the

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1 fraud is being committed by individual voters,
2 without necessarily being part of a greater
3 agenda. I think you would have to analyze it
4 both ways.

5 MR. SEREBROV: We found very little
6 though.

7 MS. WANG: There is only very little
8 who found there was anything conspiratorial
9 going on, one which was actually theories that
10 indicated that there was anything conspiratorial
11 happening.

12 MR. BAUER: A cross the board?

13 MS. WANG: Right. The ACVR report
14 allude to some coordination of voter
15 registration fraud among some of the voter

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16 registration groups.

17 MR. SEREBROV: What was stated was
18 groups versus individual. That's what I was
19 saying, was we found very little individual
20 activity as opposed to organizational activity.

21 MR. BAUER: I'm sorry. Just so we
22 can define these terms, and I apologize, very 134

1 little individual voters committing fraud.

2 MR. BAUER: Just because they wanted
3 to.

4 MS. WANG: Well, actually, in the
5 articles, you do find individuals on the
6 absentee vote just submitting an absentee ballot
7 in the name of somebody else or in the name of
8 somebody who died.

9 MR. GREENBAUM: Like some of the
10 stuff in Texas.

11 MR. DONSANTO: Somebody committing
12 voter fraud is not going to make as big a splash
13 in the newspaper as some organization.

14 MR. HEARNE: Some organization that
15 is paying somebody to do something that they
16 know is fraudulent, then that's different than
17 the individual engaging in that activity.

18 So if somebody is paying for fraudulently
19 submitted voter registration forms and they
20 understand those are fraudulent, that would be
21 then that type of activity.

22 MR. DONSANTO: Paying for piece work 135

1 and getting fraudulent documents, but that is
2 not the intent.

3 MR. GREENBAUM: I would say another
4 thing you want to measure in terms of doing a
5 risk analysis is the conditions of the elections
6 in which it tends to happen.

7 MS. WANG: Right.

8 MR. GREENBAUM: Like I think a lot of
9 people believe that voter fraud, no matter who
10 it's committed by, tends to happen most often
11 when you have very competitive elections.
12 Because people, the winner -- the fraud may
13 actually make a difference in terms of who wins
14 or who loses the election.

15 MR. ROKITA: I'd like to follow-up on
16 that to say that this risk analysis, I think,
17 might fit very well in a corporation that was
18 trying to figure out what jobs they were having
19 people do, to see if OSHA would be violated or
20 something like that. When you pour on top of
21 that the serum like you're saying of any
22 election that has its emotions in candidates'

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1 political parties tied to it, I think that risk
2 analysis is less useful.

3 MS. WANG: We can't presume people
4 are rational.

5 MR. HEARNE: With elections.

6 MR. ROKITA: And, too, you want to be
7 careful of the impression you leave. If you're

8 doing a risk analysis, you are weighing, and
9 that's something that might be acceptable.

10 MS. WANG: No, not acceptable, you
11 look for ways to address it. It's a more
12 practical way of getting at solutions rather
13 than trying to gauge with a number.

14 MR. ROKITA: You said a ranking.

15 MS. WANG: Not more important,
16 easier.

17 MR. SEREBROV: Todd, can't we presume
18 that they act rationally as to the means, not
19 necessarily the motive?

20 MS. WANG: I mean, people don't want
21 to go to jail.

22 MR. BAUER: I think the public

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1 presents itself with amalgamation, but when
2 people try to win elections, targeting, I think
3 it's all about going to great length. I think,
4 in close analysis, I don't think at the end of
5 the day you're quite right, it has the same
6 application here as it might in other field but
7 I think it might be illuminated.

8 MS. WANG: We could get someone who
9 is actually an expert in risk analysis here
10 rather than someone who is a political scientist
11 who focuses on elections. That would give an
12 even better neutrality color to it.

13 MR. PEREZ: If you're trying to find
14 out a point where you want to review who is
15 going to be doing something, the only instances

16 I have with this has been in early voting where
17 they used the mail ballot in a particular
18 instance, where trying to get a particular
19 candidate or pass something that is going to
20 avoid money. When they do the particular issue,
21 some company's going to come into town and gain
22 a big contract. That's when I have seen the

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1 mail ballot application trying to be defrauded
2 because they are trying to pass a particular
3 issue that was very obvious to us before we went
4 into it. What he did was tried to make sure we
5 did not let them do anything illegal. They
6 tried to put people in the polls. We ran them
7 out. They tried to put applications in. We
8 looked at the applications, the same
9 handwriting, anything that we could gauge.
10 Luckily, we have a lot better laws in terms of
11 what applications we have to take. We have gone
12 through with two years legislation to improve
13 the mail application process, and we have almost
14 got it down.

15 MS. ROGERS: It still can change.

16 MR. BAUER: Do you think you see more
17 fraud for initiative elections?

18 MS. WANG: You're talking about
19 money.

20 MR. PEREZ: It's like a business, who
21 is going to get money and how much money are
22 they going to get. Nobody can come to me and

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1 say, hey, Jerry, are you going to throw that
2 election. I'm not going to get any money, why
3 should I care who gets elected.

4 MS. WANG: The conditions under which
5 somebody is trying to get elected. It's also
6 the smaller elections.

7 MR. PEREZ: Where you can throw it
8 much easier.

9 MR. GINSBERG: But you can have
10 people paying people to register where the
11 stakes are higher, and therefore, have an higher
12 incidence of false registrations.

13 MR. PEREZ: The risk analysis is it
14 costs too much money, whereas if you have a
15 small election, you can spend \$10,000 and throw
16 the election, whereas on a national election, it
17 would cost.

18 MS. ROGERS: The people who are doing
19 this to be paid are simply taking a phone book
20 or making up names and making up -- used to be
21 able to collect social security numbers, making
22 up social security numbers. They didn't do it

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1 for the purpose of trying to defraud the
2 election. They did it for the purpose of
3 putting money in their pocket.

4 MR. GINSBERG: Isn't that also the
5 incubator where you get false voters coming in?

6 MR. DONSANTO: No, no. I haven't
7 seen it.

8 MR. HEARNE: One situation we had a
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9 tandem effort where there was a petition for a
10 recall. They were trying a recall petition but
11 to do that you had to be a registered voter.
12 They were forcing the recall petition as well as
13 turning in the registration. This was, in
14 effect, using that same process, certainly
15 affecting the election process through that
16 petition effort.

17 MS. ROGERS: The ones that we saw
18 mailed out something and it came back
19 undeliverable, these people did not exist.

20 MS. WANG: In the ones that we
21 interviewed, almost nobody that has phoney
22 registration forms led to illegal votes. It's

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1 not to say it's not a problem, but messing up
2 the voting rolls creates a problem of
3 confidence.

4 MR. PEREZ: That's hard to do now
5 because you have to have a drivers license,
6 social security number, a lot of data. We watch
7 three criteria. If it's not good, they kick it
8 out. That person is in limbo until we can
9 verify something.

10 MS. WANG: Exactly.

11 MR. DONSANTO: We have had several
12 investigations involving these sort of bogus
13 registrations generated through the bounty
14 hunting system of paying people. In most of
15 these cases, complainants were election
16 registrars. The reason it came to our attention

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17 was because the people did not get on the rolls.

18 It's still a crime.

19 MS. WANG: Right.

20 MR. DONSANTO: But the system worked.

21 MS. WANG: The biggest problem is it
22 drives administrators crazy.

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1 MR. HEARNE: Well, if they go to the
2 phone books, they are taking sometimes names of
3 legitimate registered voters.

4 MS. WANG: with the statewide
5 database, now it's going to get knocked out.

6 MS. ROGERS: They were making up the
7 social security number, but a lot of them took
8 phone books and they started saying, Apartment
9 1, Apartment 2.

10 MR. DONSANTO: Turn them in, get the
11 two dollars.

12 MR. BAUER: It answers an interesting
13 question. 150 years ago, it wasn't a question.
14 High intensity, high party electoral process,
15 intense, passionate people would march through
16 the street with passion, widespread cheating,
17 you name it, there was a belief in the outcome.
18 Now, we're in a high stake press, low, weak
19 party process. Voter applicant is such that he
20 really actually wouldn't expect an enormous
21 amount of voter fraud because benefits are not
22 seen.

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1 MS. WANG: If you read Laura Minete's
2 report, she comes to that conclusion, that the
3 structural conditions that led to such fraud in
4 earlier times in our history are no longer
5 present, especially weakening of the party
6 system that so organized these efforts. It is
7 pretty interesting.

8 should we try to move on to the next
9 steps?

10 MS. SIMS: A lot of the public record
11 doesn't have a lot of information on what they
12 meant by voting fraud. Secretary Rokita had
13 asked us to take a look at the legislative
14 history on that.

15 LAIZA: I have the conference reports
16 and I highlight where they use the word fraud.
17 You're welcome to take a look at it. What I can
18 do is e-mail them to you. I can make copies
19 right now or e-mail them to you.

20 MR. HEARNE: You don't need to
21 highlight, just e-mail it.

22 MR. SEREBROV: Actually, can you 144

1 e-mail that to everyone?

2 MS. SIMS: You will see fraud crops
3 up in a lot of other sections, and it's equally
4 unlikely just because they use it in terms of
5 the NIS support to help us prevent fraud, the
6 report that we have already done on the uniform
7 overseas voters issues best practices to avoid
8 fraud there, that sort of thing pops up in a lot

9 of different places.

10 MR. DON SANTO: We have never seen a
11 problem having to do with anything having to do
12 with fraud of any kind. It is not structurally
13 set up that way, put that low on your list. All
14 we have is a criminal statute that deals with
15 fraud.

16 MS. WANG: Its been such a
17 deterrence. These are just my own thoughts
18 about things that I'd like to see done, that we
19 build upon the research that we've done. As I
20 mentioned, and I have mentioned a lot of these
21 already, I would greatly broaden the scope of
22 the type of interviews that we've done to the

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1 local people, and also to include the federal
2 district election officers and district
3 attorneys like we have discussed a lot, the
4 follow-up on the nexus research to see if there
5 had been some further resolution, follow-up on
6 the reports and books written to see, again,
7 whatever happened to those instances that were
8 cited.

9 I also wanted to talk about both the
10 election protection materials and also the 1800
11 my vote analysis. I don't know how many of you
12 are familiar with this but they took, in 2004,
13 200,000 phone calls and they have created a
14 database in which they have separated out the
15 types of complaints, whether it be a
16 registration problem, intimidation, improperly

17 asking for ID. They have them all systematized
18 from all across the country. They also have
19 over 50,000 audio phone messages that were left
20 that they have also culled through and assigned
21 categories for what type of complaint or
22 allegation was made. And I had thought that

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1 looking at that data further might be useful.
2 And I have spoken to the people who ran that
3 project, who are willing to share that with me.
4 I also would love to be able to get more and
5 analyze more data and information from the
6 Department of Justice, such as information from
7 the database what's called the interactive case
8 management system that they have on complaints
9 received and how they were dealt with, which I
10 referred to earlier they did not feel
11 comfortable sharing with us. The election data
12 which we also were not able to get, and also
13 reports done by the district election officers
14 who are in every jurisdiction.

15 I also think it would be great to
16 attend the next session of the ballot accessing
17 symposium.

18 MR. DONSANTO: No, that is not
19 possible. That is classified. I didn't set up
20 the rules for this. Believe me, there is no
21 chance.

22 MS. WANG: I think it would be useful
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1 to do a complete analysis of the federal
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2 observer errors from 2002, 2004 and 2006.

3 MR. GREENBAUM: Let me give you a
4 little warning about that. Assuming that you
5 have got them.

6 MS. WANG: That were millions of
7 them, I know, but there might be some way to do
8 a sampling or something.

9 MR. GREENBAUM: You would have to
10 have -- I mean, we did -- for our report on the
11 Voting Rights Act, we did have people go through
12 the ones that we had, and it was a lot of people
13 and a few reports, a few different elections,
14 let's put it that way.

15 MS. WANG: I know. And also, again,
16 as I mentioned before, I think it's important
17 that we have an academic institution or
18 individual that focuses on statistical methods
19 for political science research. And I certainly
20 know a bunch of people like that, and would be
21 very interested in working with someone like
22 that in the second phase.

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1 Those are my suggestions.

2 MR. SEREBROV: Yes. And I had three
3 suggestions. I think two may have gotten up
4 there. One was a survey of state laws.

5 MS. SIMS: I've got that.

6 MR. SEREBROV: One was a survey of
7 district court cases, which I think you may have
8 gotten, survey of district court cases not in
9 specific states. And then the other thing is

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10 looking at local newspapers in various states
11 and running searches on election issues. I
12 think right now what we need to do is bear down
13 on the local level. Sometimes those are missed
14 in the nexus search. I think we need to plug
15 the holes.

16 MR. HEARNE: One thing that was
17 mentioned here was working with the database to
18 compare, I think it was referenced in the dead
19 voters, just doing a statistical match. Being
20 able to run the voter role versus the dead,
21 divorces, those that did cast ballots,
22 essentially, three data fields, and see where

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1 you get an overlap.

2 MS. WANG: That is part of the second
3 to the last page.

4 MS. SIMS: So we're looking -- I know
5 we covered some of that over at the FEC, but
6 looking at list maintenance procedures.

7 MR. HEARNE: I mean, you hear the
8 allegation and there's been reports in the
9 Detroit News where they went through and did
10 this process where they marked and found a bunch
11 of votes in the name of those who were dead, and
12 they found the people.

13 MS. ROGERS: That's not going to work
14 unless you actually go back to wherever the
15 voter filled it out because the election
16 official may have actually tagged that dead
17 voter by mistake, instead of the other voter,

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18 even though the dead voter didn't show up.
19 You have to go to the documentation at the
20 polling place to determine whether they gave
21 credit to the right or wrong voter. There is a
22 huge opportunity for error.

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1 MR. HEARNE: But if you did that and
2 said, let's take the list of everyone who is a
3 registered voter in whatever area we're looking,
4 whatever state, let's say Texas, then I take
5 that and run it against the social security
6 death list, and get those.

7 MR. PEREZ: Following along, it might
8 be easier, NVRA requires us to put it in
9 suspense because we have to keep them for four
10 years. People can go through and pick out those
11 people and then commit voter fraud based on the
12 fact that those people aren't there any more.
13 That data can be quantitatively checked
14 throughout the state. You can say how many
15 suspense voters did you have in the last
16 election.

17 MR. HEARNE: Then you print that out.

18 MR. PEREZ: But you have such a large
19 number. How many of them were really updating
20 their record and how many of them were not.
21 That would be harder to prove. That's a big
22 hole that we've got.

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1 MS. WANG: I would want to talk to a

2 political scientist about that. They can figure
3 out ways of doing it, margins of error.

4 MS. ROGERS: I would feel comfortable
5 doing that after this year. We're implementing
6 poll books instead of a manual credit. So the
7 person who actually voted will get the credit
8 for voting. It won't be something going through
9 slips of paper, trying to do that manually for
10 four million voters, but until everyone had an
11 automated process of that sort --

12 MS. WANG: Well, none of that is
13 going to happen any time soon.

14 MR. GREENBAUM: What percentage come
15 out to the polls?

16 MS. ROGERS: In the presidential
17 election, you get a large number of inactive
18 voters.

19 MR. PEREZ: They become inactive, yet
20 they show up to vote, so it would be hard to
21 tell which ones were not legitimate voters.

22 MR. HEARNE: You can run that against
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1 the social security death list.

2 MR. PEREZ: Well, the state does that
3 automatically.

4 MS. SIMS: I know Kentucky was one of
5 the first big states that did that statewide,
6 and they did have one instance that the mother
7 of a state legislator was listed as dead and she
8 wasn't.

9 MR. HEARNE: I assume you would have

10 some errors.

11 MS. SIMS: It gives you something to
12 start with, and that's subject to confirmation,
13 helps you target.

14 MS. ROGERS: I think you might get
15 better data if you match data state to state,
16 try to determine who the double voting and dead
17 voters are.

18 MS. WANG: I'm sorry. We have a side
19 bar going on. Anyway, I'm sorry about that.
20 So those are our suggestions for next steps that
21 the second phase could undertake.

22 Anything else that we can think of? 153

1 MR. GREENBAUM: I am still worried
2 about -- one of our big areas of concern is
3 deceptive practices. And I am struggling with
4 how to measure that, how to define it. It's not
5 something that you're going to find in the cases
6 so far, for various reasons.

7 MS. WANG: You do find it in the
8 news.

9 MR. GREENBAUM: You do find it in the
10 news.

11 MR. DONSANTO: There is also a range
12 of different types. These things range from
13 relatively innocuous communications to ones that
14 are a terribly pernicious.

15 MR. GREENBAUM: Kind of how you sort
16 that. I don't know if you have any ideas.

17 MR. DONSANTO: A series of letters

18 that are circulated saying something stupid like
19 Republican are not allowed to vote in this
20 election, which is idiotic. Another on the
21 other end would be something that suggests to
22 people that the polling places in one fact when,
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1 in fact, it is another, or Republicans vote on
2 one day and Democrats vote on another.

3 MR. GREENBAUM: You saw it all but
4 how do you measure that?

5 MR. DONSANTO: In terms of their
6 damage.

7 MS. WANG: Although that is the kind
8 of things that organizations could provide more
9 eyes and ears on. Well, actually there you have
10 real evidence. You have phone calls.

11 MR. GREENBAUM: I brought some of the
12 fliers with me, if anyone wants to look at it.

13 MR. DONSANTO: We have some on board
14 of elections stationary. Somebody got a hold of
15 board of elections stationary.

16 MR. GREENBAUM: Unfortunately.

17 MS. SIMS: We have got the idea of
18 looking at some of the phone calls because we
19 have phone logs here that we keep for calls
20 related to election.

21 MR. GREENBAUM: Can I get a stapler?

22 MS. SIMS: I don't know if we have
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1 access to groups' outside phone logs. I know we
2 have had problems with that before, phone logs
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3 for other groups.

4 MS. WANG: Well, you guys would share
5 your stuff with us, right?

6 MR. GREENBAUM: Yes, except for the
7 identifying information of the individual who
8 called in.

9 MS. SIMS: So we could at least get
10 an indication.

11 MR. GREENBAUM: That stuff is
12 available. I can give you the website.
13 The one that I think that I will say is that we
14 will do the -- the quality of the data will be
15 better in the future than it was in 2004.

16 MS. WANG: Deceptive practices is one
17 area where you have some piece of evidence. So
18 you are not necessarily having that problem,
19 allegation versus reality, whereas we actually
20 made the decision not to go through election
21 protections data during this phase because of
22 the problem of trying to weed out allegation

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1 from reality. I think deceptive practices is
2 one area where we can use the data from various
3 organizations out there monitoring the situation
4 without any controversy.

5 MR. SEREBROV: You also might be able
6 to get some from the either the secretary of the
7 states office or state board of election
8 commissions.

9 MS. SIMS: That was a question I have
10 since we have two state officials here.

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11 Should we look at the feasibility of getting
12 reports? You already put reports together, and
13 I know that's not the case in all states.

14 MR. SEREBROV: Arkansas does.

15 MS. WANG: It could be part of the
16 Election Day survey.

17 MS. SIMS: Well, that's something we
18 could explore.

19 MS. HODGKINS: There are several
20 states that have voter fraud units to
21 investigate these matters where there is at
22 least an opportunity for people to report, at

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1 least. We did keep reports on what would then
2 be transmitted to the District Attorneys Office
3 for prosecution.

4 MR. SEREBROV: Arkansas didn't have
5 that. I assume Louisiana did. Do you know
6 which states have it or which states don't?

7 MS. HODGKINS: I don't.

8 MR. SEREBROV: Is there any way you
9 can get a list?

10 MS. HODGKINS: I'm sure there is.

11 MR. DONSANTO: Do a survey.

12 MS. WANG: I also think there is
13 unity in getting a case management system for
14 the voting system.

15 MS. ROGERS: In terms of state law,
16 what does each secretary of state or state
17 election board -- how do they handle complaints
18 at the time it hits the door; who makes the

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19 determination of whether that is a valid
20 complaint or invalid complaint. I think we
21 found that varied.

22 MS. ROGERS: It varies. We have even
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1 changed our own internal policies since I became
2 director. The former director actually sort of
3 looked at some of these, and you just don't
4 always have enough information to do that.

5 MR. SEREBROV: I think you have to
6 start with the foundational question is, does
7 the secretary of state or the state board have
8 the authority to handle complaints at all.

9 MS. ROGERS: Right. And at some
10 point, I realize that in any event, the question
11 would be, what do you do when the complaint
12 comes, period.

13 MS. WANG: We asked that of all the
14 administrators that we interviewed, and we got a
15 different answer from everybody.

16 MR. WEINBERG: I actually asked the
17 state election directors that through NASAD a
18 few years back, and they distributed the
19 question to the state election directors. And
20 it turned out that hardly any state election
21 directors, at least in 2001, I think, had much
22 authority at all to do anything about anything.
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1 MS. WANG: They don't have authority.
2 What we heard is they will get complaint but

3 then they will throw them out to whoever does
4 have authority.

5 MR. WEINBERG: By the way, I don't
6 know what Department of Justice case management
7 system you're referring to, but if it's as good
8 as the one they have had for the last 40 years,
9 I wouldn't suggest you waste time on it.

10 MR. SEREBROV: John Tanner didn't say
11 a lot of anything.

12 MS. WANG: No. He didn't want to
13 share a lot.

14 MR. PEREZ: Peggy, are you sure this
15 wasn't a typo?

16 CHAIRMAN DEGREGORIO: Each state,
17 under HAVA, is required to post complaints.
18 Every polling place in the country in federal
19 elections is to post its administrative
20 complaint procedures. I look for that when I go
21 out to places all over the country. The chief
22 election authority is the one who sends it out.

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1 MS. WANG: I would be curious to know
2 the extent states are implementing
3 administrative complaint procedures under HAVA,
4 because I don't think they all are.

5 MS. ROGERS: I can tell you we have
6 it, and it's just sitting out there.

7 MS. WANG: Even if they informed
8 HAVA, I don't think people even know about it to
9 use it, and I think maybe that's something else
10 that's not my bailiwick, but something ought to

11 be looked at.

12 MR. PEREZ: State of Texas made
13 posters four feet by three feet. They go to
14 each poll, red, white, and black, and they do
15 call, because I have got several calls and they
16 ask me what happened.

17 MS. SIMS: That is another research
18 project we have somebody working on. We have a
19 Design For Democracy group to try to help
20 election officials make them simple and clear so
21 people can see this information a lot better
22 than what we do now.

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1 MS. WANG: Also, it might be wise for
2 the EAC to undertake as another project to
3 investigate or do a survey of whether the states
4 are actually implementing the administrative
5 complaint procedure and whether that can be used
6 as another tool for quantifying or deferring or
7 investigating these types of activities.

8 MR. PEREZ: You could query the law,
9 see how many complaints.

10 MS. WANG: If they were actually
11 using the complaint procedure.

12 MR. PEREZ: But that would give you
13 something to look at.

14 MS. ROGERS: It's not that we don't
15 get complaints. It's just that not too many
16 fall under administrative complaints under HAVA.
17 There is a narrow window there.

18 MS. WANG: Right, but at least you

19 would know of the complaints, whether you refer
20 them out to another entity, at least you could
21 have that much information.

22 MR. GREENBAUM: How many complaints 162

1 do you get from a major election?

2 MS. ROGERS: We get -- gosh, without
3 having the form in front of me. We could get
4 anywhere from a hundred or more questions,
5 complaints. They could range from a hundred to
6 200. What we do now, we have started this since
7 2004, we have so many people taking calls on
8 Election Day, and when you can't get through to
9 say our office or a county office, then even the
10 calls are spilling over from elections agencies
11 into other divisions of the Secretary of State's
12 office. It's like whoever they can get a call
13 to on that day. We have actually provided forms
14 to everyone that may take a call, and then we go
15 through after the fact and they have to
16 identify, does this person need a call back,
17 were they satisfied, was there anything here
18 that needs immediate action or that needs to be
19 forwarded to us immediately. And we follow up
20 on every single complaint that we can not find
21 out right then was unjustified. And some of
22 them maybe couldn't find the polling place.

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1 They moved it. I just didn't know.

2 But we take all of those complaints and then

3 follow through. It is time-consuming and it is

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4 taking up more time and energy than we have ever
5 put to it in the past.

6 MR. SEREBROV: Does anyone in your
7 office have the authority to do something about
8 complaints?

9 MS. ROGERS: Well, we probably take
10 more authority than we really have under the
11 law, if you want to get right down to it. We
12 have monitors and observers out there. They
13 contact us immediately, and we do apply some
14 immediate pressure if we think something's
15 happened. We act like we have it.

16 MR. SEREBROV: One thing we asked the
17 interviewees, I think that is the way it is in a
18 lot of states -- should there be some kind of
19 administrative judges or anyone specifically
20 trained in this area who would quickly dispose
21 of these things, what do you all think about
22 that?

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1 MS. WANG: I think they say in
2 Pennsylvania they have special courts.

3 MR. HEARNE: Election courts, it is
4 mostly Philadelphia. It may be mostly there
5 that they get used but they have special
6 election courts set up, an election court.

7 MR. SEREBROV: Are they the same
8 judges that sit as normal?

9 MR. HEARNE: Most states, they would
10 have a separate procedure for designating when
11 it gets to that level. What Philadelphia has is

12 they have this whole host of election -- they
13 call them judges. They are not a full court
14 judge, but they act in that capacity.

15 MR. SEREBROV: See, here's where the
16 system's bogged down in at least any state that
17 there are election judges. In Arkansas, you get
18 a complaint, right, someone files suit. It goes
19 to the circuit court judge. Circuit court judge
20 is elected. Now, up to three years ago, the
21 circuit court judge was elected on a ballot.

22 So the circuit court judge never rules the way

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1 just a completely neutral judge should rule. It
2 just doesn't happen, so all those cases get
3 appealed to the Supreme Court of Arkansas.
4 Supreme Court of Arkansas is elected. Then you
5 get have very strange things go every which way
6 when it comes to election cases.

7 MS. WANG: Do you have any sense
8 maybe this is one more thing to investigate
9 further, whether the Pennsylvania system works.

10 MR. HEARNE: I have the general sense
11 I guess it sort of works and it sort of doesn't,
12 and there is not a whole lot of confidence in
13 it.

14 MS. WANG: Maybe it is something to
15 look at though. I know they certainly have that
16 system. Maybe you and Craig would know better.
17 They have election courts in other countries.

18 MR. HEARNE: The biggest problem is
19 having real clear rules beforehand so that

20 whoever is making that decision, it is not
21 perceived of as a biased perception, but that
22 it's just, hi, here it is. We have a procedure.

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1 I don't care what party you are.

2 MR. WEINBERG: In most countries
3 where you have an election procedure, it is
4 centralized, and so they get immediate
5 responses. They do have courts, but on Election
6 Day, it is whoever is running the election tells
7 the people the polling stations' precinct people
8 to get it right.

9 MS. WANG: So election courts aren't
10 used on Election Day.

11 MR. WEINBERG: No, not much.

12 MS. ROGERS: Each county has to sit
13 until the election has closed out for the day
14 for the purposes of hearing something like a
15 polling place should remain open, but any
16 allegation of fraud would not necessarily be
17 there that day. It would be more to mitigate,
18 and we need to hold that polling place open.

19 MR. SEREBROV: See, in Arkansas, 99
20 percent of the problems used to occur on the day
21 of election that they were sued over.

22 And the problem is the Supreme Court of

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1 Arkansas, in its infinite wisdom, has decided
2 that election law is discretionary after the
3 election. So if a violation occurs on the day

4 of the election and you file the day after the
5 election, they don't have to apply the law.

6 MR. WEINBERG: Everybody does that,
7 that's throughout the whole country, mandatory
8 before, discretionary after. But, you know, I
9 always thought that it would be good for the
10 state supervisor of elections office to have the
11 authority to get the word down to the polling
12 place to stop doing it wrong and start doing it
13 right, I have always thought.

14 MS. WANG: They informally do that.

15 MR. WEINBERG: Hardly anybody has any
16 authority.

17 MS. ROGERS: Don't tell them that.

18 MR. WEINBERG: But I have always
19 thought that if everybody did in the polling
20 place what state law said they should do, you
21 wouldn't have any problem.

22 MR. PEREZ: Secretaries of states are
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1 going in reviewing the situation. It is up to
2 the local mission.

3 MS. ROGERS: To take them before the
4 state election board. If we find an infraction
5 at the poll worker level, then we bring it to
6 the state investigation board. It goes forward
7 for administrative hearing.

8 MR. SEREBROV: The legislature won't
9 permit them to have an attorney.

10 MS. ROGERS: we call them
11 policymakers.

12 MR. GREENBAUM: We're seeing in some
13 states consolidation for giving the head
14 secretary of state or whatever statewide
15 election official more authority, so it is
16 moving towards that direction.

17 MS. WANG: In other directions.

18 MS. SIMS: We should be able to get
19 into that, if we do a survey of state laws
20 and/or regulations.

21 MS. ROGERS: Like Georgia, there are
22 little counties that won't comply with absentee
169

1 battling deadlines. We were the ones that
2 entered into the consent order with the DOJ. So
3 states should need more authority.

4 MR. PEREZ: Looking at voting fraud,
5 a type command structure from the top down would
6 wrinkle it out real fast. I'm not sure that's
7 the problem. At the lower level, it is more of
8 a dysfunctional structure thing more than voter
9 fraud. Voter fraud is going to be committed by
10 parties outside. We need a tighter command but
11 that's not going to be in you all's recommend
12 because that is not really voter fraud.

13 MR. HEARNE: Where it goes to voter
14 fraud would be for the statewide half, for the
15 agent of the state to keep that clean, current
16 and accurate, that is the biggest reason
17 somebody shows up at the poll. So if you have a
18 clean, current, accurate, statewide list.

19 MR. PEREZ: In that respect, you're

20 right, but the rest of it is still not there for
21 the state of Texas, so they cannot fix a bad
22 problem. San Antonio had problems for decades. 170

1 The secretary of state knew about them, could
2 not do anything about them.

3 MR. ROKITA: One methodology that you
4 might want to investigate is to determine across
5 the states what kind of data facilitation there
6 is from a county level to the state level.

7 MS. WANG: None.

8 MR. ROKITA: Actually, that is not
9 accurate because Indiana --

10 MS. WANG: well, not many states.
11 we had to ask a lot of people. No. Go ahead.

12 MR. ROKITA: We just passed a law
13 that is going to require county clerks, any
14 voter challenge that is made, any precincts in
15 their county, a record has to be transmitted to
16 the state level. Anything can be passed on to a
17 prosecutor. We have the statewide voter files
18 as vehicles to quickly pass that information.
19 So you may want to investigate.

20 MR. SEREBROV: well, I think what are
21 you suggesting that there should be -- I almost
22 don't want to use this word. Are you suggesting 171

1 that there should be some uniform laws?

2 MR. ROKITA: No, no, no -- whoever
3 the reporter is.

4 MR. HEARNE: I think he said it three
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5 times, for the record.

6 MR. ROKITA: Paul knows from whence I
7 come in other meetings, but I guess, again, to
8 identify methodologies, this may be where you
9 can get that kind of data, then have
10 quantitative analysis to use, something that we
11 as a state all by our lonesome figured out we
12 can do.

13 MR. CORTES: Perhaps not a uniform
14 law, but perhaps for us to look at some model
15 statutes in different states, because I don't
16 think all states are at the point where they are
17 taking the initiative to do that. And so if
18 they have some model statutes to look at, they
19 can say, oh, this might fit our situation or
20 this might not fit, and we can adjust
21 accordingly.

22 MS. WANG: We're talking about for 172

1 the purposes of data collection and doing
2 research, I am curious if anyone knows which
3 states are the ones that already are collecting
4 data, county level data, at the state level,
5 because my impression has been that they are not
6 doing that, but you're telling me something
7 else.

8 MR. GREENBAUM: Of voter fraud?

9 MS. WANG: Complaints.

10 MR. HEARNE: There's been particular
11 investigations after different elections that I
12 am aware of, but not as a practice

13 institutionally in that category.

14 MS. ROGERS: I don't go through and
15 put it all in a spread sheet, but we do maintain
16 the complaints.

17 CHAIRMAN DEGREGORIO: In the state
18 plans that were filed with us, did any detail
19 complaint procedures?

20 MS. SIMS: Reporting back to the
21 state, that I don't know.

22 MR. CORTES: I think in terms of

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1 going back a second to the administrative
2 complaint procedure, that being a tool for this,
3 I think part of the problem that we run into is
4 that HAVA only requires that those complaints
5 procedure be for complaints and implementation
6 of Title 3 requirements. Some states have
7 though taken it a step further, and in creating
8 the administrative complaints procedure that
9 they need to under HAVA, have expanded it and
10 made that their standard complaint procedure for
11 anything that goes on dealing with any
12 complaints dealing with elections.

13 MS. SIMS: California has a combo
14 form, a form for Title 3 complaints and other
15 things that might go voting rights.

16 MS. WANG: I would love to see the
17 forms.

18 MR. CORTES: So there are some states
19 that combine that, and have one procedure, and
20 use one form that's available for all sorts of

21 complaints.

22 MS. WANG: Do they keep records? 174

1 MR. CORTES: I'm just telling you the
2 administrative complaint procedure, some states
3 have done that. Some states will only take the
4 very specific thing that HAVA asked them do and
5 have other procedures that they use for state
6 specifically complaints.

7 MS. SIMS: No more ideas, we're all
8 worn out?

9 MR. ROKITA: I have some thematic
10 thoughts, if I can share them, what we haven't
11 talked about today yet, but I did see some up in
12 some of the interviews, is the idea of some of
13 these deterrents or perceived deterrents to
14 fraud being confidence builders for the entire
15 prospect of going to the polls and having your
16 vote count but only once. I think that should
17 be a significant part or central to the work
18 certainly of the EAC and of this report.

19 Just like to give a statement against
20 interest, having a paper audit trail to machines
21 is less based on empirical data that electronic
22 machines are wrong and more based on a

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1 confidence builder.

2 MS. WANG: Although I would say that
3 we're trying to stick with empirical data and
4 not feel-good measures. So I would feel it a

5 little risky of making a recommendation purely
6 so people would feel better.

7 MR. ROKITA: Again, I am having a
8 very difficult time articulating today.

9 MS. WANG: Maybe I am not
10 understanding.

11 MR. ROKITA: Well, let me finish, and
12 that is to say that, let's take, for example,
13 the risk analysis, if you rank something like
14 that as to what's easier, what is harder to do,
15 we have it look at it from a wholistic approach
16 as well. And that is, every methodology, if it
17 is valid, that could help deter fraud needs to
18 be looked at from the goal of building
19 confidence in our elections, where that
20 confidence is deserved. And I would hope that
21 that gets into some of the thoughts and the
22 language and the semantics of this report.

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1 MR. GREENBAUM: I think what I would
2 say in response to that is if you're going to
3 look at that, I would also want to look at to
4 what degree certain measures might also impact
5 access to the ballot. Because if you take a
6 certain measure where there is no empirical data
7 saying this is something that needs to be done
8 but it may add to voter confidence, but on the
9 flip side, that particular measure may impair or
10 prevent access to the ballot for certain people,
11 that need to be looked at as well.

12 MS. WANG: That's what I was trying

13 to get at. Once you start doing something
14 purely on what the general public perceives to
15 be the biggest problems, rather than trying to
16 take an empirical approach and find out what the
17 problems really are, and addressing what the
18 problems really are, you start not expending
19 your resources in the most efficiency way.

20 MR. ROKITA: Well, we have already
21 decided at the beginning and throughout this
22 discussion that it is very difficult to get

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1 empirical data, especially on this particular
2 issue, which has the syrup on top it of it that
3 doesn't include dispassionate actors.

4 Having said that, the point here is,
5 whether you have an actual conviction of voter
6 fraud or whether you have someone who was in
7 line at the polling place who thinks they saw
8 voter fraud, it is the same effect. It is
9 equal, and that is, they don't come back to
10 participate in the process. So you can't ignore
11 that fact and just focus on the data that you
12 might have, and that's part of the human
13 involvement interaction in the electoral
14 process.

15 And as long as humans are involved in
16 the process, you're going to have a dichotomy
17 there. Again, the effect is exactly the same.
18 No convictions for in person fraud at the poll,
19 no relation to whether or not its happened.
20 Your interviews even say that it's very hard to

21 detect, so you have got to incorporate that
22 reality into this report, if it's going to have 178

1 validity to the public and to election
2 officials.

3 MR. PEREZ: Brings up the semantics
4 because you're saying no system should go out
5 having a voter verifiable paper trail.
6 Every system in Texas has a paper trail.

7 The large part of perception and real
8 fraud is the perception of a paper trail or not.
9 The same thing semantics can be possibly
10 incorporated in there to educate them.

11 MS. WANG: That is the approach I
12 would prefer to take, is to educate people as to
13 what the problems really are, rather than you
14 trying to address problems that they think only
15 exist but may not in reality.

16 MR. ROKITA: I'm not asking you to
17 make up a fix. I'm asking you to realize that
18 there is a very real issue out there. whether
19 fraud is perceived or you have a real
20 conviction, the effect is the same.

21 MR. GINSBERG: The problem that I
22 think you have with this is fraud and 179

1 intimidation become two sides of the same coin
2 and they are used for political purposes. They
3 are used for get-out-to-vote purposes.

4 So the notion of agreeing on what the
5 problem is, is going to be really, really tough,
Page 133

6 which to me goes back to the issue of having
7 people, where the fraud or intimidation takes
8 place from both parties, since they are the ones
9 that are starting all the problems that
10 challenge the legitimacy of the election.

11 MR. GREENBAUM: Our counterpart's not
12 here anymore.

13 MR. GINSBERG: I waited for just that
14 moment.

15 MR. HEARNE: The point's coming up
16 and I think it's one when I was an advisor to
17 Carter Baker, the underlying point of this
18 effort is to increase voter confidential. It is
19 also to convince the winner of an election that
20 he won. The trick is to make the loser knows
21 that it was a fair election, so long as you come
22 out after every election process saying it was

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1 stolen or they intimated my base, whatever it
2 is, is an erosive charge.

3 I understand the EAC's charge is to
4 come up with a way to look at that process,
5 quantify it, develop a process to say it does or
6 don't exist to this degree, here's what
7 happened, and here's ideas on places to go to
8 address it so the next election and the one
9 after and the one after, we're going to say it
10 may or may not have been the one I wanted, but I
11 at least felt the voters decided, not some
12 special group, or lawyers, or judges
13 manipulating. I think that's the objective we

14 want overall.

15 Perception is important, and the
16 empirical information we're starting with is to
17 say, how did we find out, where do we hear about
18 to go to find it. I like Ben's suggestion of
19 why don't we look at the next election as a
20 model, whatever way we can come up with a
21 statistically -- have people going to the
22 polling places, to look at that as a way to try

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1 to quantify and identify those issues.

2 MS. WANG: I guess I would reiterate
3 John's point about making sure that when you try
4 and engage in confidence building measures that
5 you aren't at the same time disenfranchising
6 more people than you're giving confidence too.

7 MR. GINSBERG: There are a whole
8 bunch of assumptions built into that statement
9 that demonstrate why you may have difficulty
10 getting any sort of agreement on what you're
11 saying.

12 MR. GREENBAUM: If you want to go
13 back to what the language earlier before we had
14 a recitation of what the language is that the
15 EAC is supposed to be doing. If it's methods of
16 identifying, deterring, and investigating, voter
17 fraud, I just don't see where people's
18 perceptions come into that.

19 MR. ROKITA: I am looking at 20
20 interviews worth of perceptions.

21 MR. GINSBERG: If people's
 Page 135

22 perceptions of this don't matter, then why are 182

1 we doing this. You want to have confidence in
2 the system.

3 MR. WANG: You want a system that's
4 actually fair and accurate.

5 MR. GINSBERG: Listen, what you just
6 said means that your definition of what is fair
7 and accurate is not going to be universally
8 accepted. It's still two sides of the coin of
9 the issue, and your perception of that is not
10 going to be shared.

11 MR. PEREZ: What if we put a third
12 person in that, Republican, Democrat,
13 independent?

14 MR. GREENBAUM: Not even independent,
15 nonpartisan.

16 MR. ROKITA: That animal doesn't
17 exist in this business.

18 MR. GREENBAUM: Doesn't exist in your
19 business.

20 MR. ROKITA: No, this business.

21 MS. ROGERS: I tend to look at the
22 logistics of the things instead of the lofty 183

1 ideas. You talk about the observers, that's not
2 a bad thing. We work, at the lawyers committee,
3 we work with them on that but elections within
4 the next decade are not going to occur on
5 election day. Elections are already now

6 occurring in the week or two weeks leading up to
7 Election Day. They are occurring by mail. So
8 putting all your resources in Election Day is
9 not going to be an answer for very much longer.
10 Then how many resources do you have to extend
11 that out to two-week period to insure that you
12 have all these monitors. In addition to that,
13 you have got to be so careful that -- how do you
14 determine who gets to observe and who doesn't.
15 Obviously, Democrats and Republicans want a
16 place at the table. Well, in our state, the
17 green carding and libertarians want a place at
18 the table as well.

19 Parties are allowed to appoint two
20 poll watchers and then the independent
21 candidates, one. We have got a lot of other
22 voter verifiable and paper audit trail folks who

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1 want to send in observers as well. We get
2 questions from overseas. Very quickly, you can
3 overwhelm a polling place where they are going
4 to feel intimidated or suppressed when they walk
5 in the door.

6 It can work, but in order for there
7 to be any support from my peers, there would
8 have to be a lot of caveats that went with it,
9 as far as the training, who got to observe, who
10 they notified of what they see on Election Day,
11 do they notify their party, the national party,
12 and then you get a fax that says we just found
13 out blah, blah, blah and we're putting you on

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10 they notified of what they see on Election Day,
11 do they notify their party, the national party,
12 and then you get a fax that says we just found
13 out blah, blah, blah and we're putting you on

14 notice. Just random thoughts.

15 MR. GINSBERG: All of that's correct.
16 We all agree that there is a problem with fraud
17 and intimidation taking place in elections. The
18 question is how many prosecutions are there on a
19 regular basis that show that there is either
20 fraud or intimidation.

21 MR. DONSANTO: I don't think that is
22 a measure of anything. There is a hell of a lot
185

1 more out there than we ever find, and there is a
2 hell of a lot more, we don't have the resources.

3 MR. GINSBERG: And rumors about it
4 are greater than the actuality.

5 MR. DONSANTO: There is a lot more
6 out there than we ever catch, and the rumors are
7 even more.

8 MR. GINSBERG: Exactly. So if you
9 want to deal with the problem of the electors
10 having confidence in their elections, you have
11 got to deal with all the rumors that are out
12 there. And I love academic studies and surveys,
13 but you've got to have people on the ground in
14 the polling places or watching the two-week
15 process that takes place, and verifying that.
16 And all the academic studies in the world are
17 not going to get at that public perception
18 issue.

19 MS. WANG: Definitely, a lot of the
20 people we talked to recommended more monitoring,
21 including Joe Rich, who was a big proponent of

22 that.

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1 MR. HEARNE: I think the point was
2 made increasingly and the trend is there, we're
3 going into more and more absentee balloting, and
4 the one point is a pretty broad consensus here,
5 where vote fraud does go on, that there is a lot
6 of it in absentee balloting, an area that merits
7 scrutiny, and understanding, involvement, and
8 that's going to be an area that increases in
9 terms of availability of those kinds of avenues.

10 MR. ROKITA: My other point to that
11 would be just because we identify or focus on
12 absentee fraud as an area where there are
13 problems, and I certainly agree, we, I think,
14 have to be careful of leaving the impression of
15 that means it is not occurring in other areas
16 because we just don't know.

17 MR. DONSANTO: Right, it does occur
18 in other areas. Absentee ballots happens to be
19 the methodology of the moment.

20 CHAIRMAN DEGREGORIO: You know,
21 Craig, you have served as an observer, and I
22 know you have. It just so happens this morning

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1 from 8 to 9:30, I met with the head of OSC, who
2 was here because they had a little team here.
3 They are going to send a team to observe in
4 November. They have a method they have used
5 when you go observe an election. You have a
6 form you fill out. They have people, long-term

7 observers, who go six weeks before the election,
8 and short-term, who go for a week, and all this
9 material is brought in election night. All
10 night long they calculate it, then they issue a
11 statement at 1:00 the next day saying whether
12 the elections were free and fair, whether you
13 have can confidence/no confidence in the winner.
14 And in Ukraine, they didn't have confidence in
15 the winner, brought down the Government.
16 They had another election six weeks later but
17 they use that method of observation because of
18 perception that people have whether the
19 elections are free and fair.

20 Jimmy Carter has done similar things
21 in Central America. The Carter Center does that
22 too, but they have a method to do that. You

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1 have been part of it and I have been part of it,
2 to try to make that judgement call, and they are
3 all independent people from different countries
4 that go to do it.

5 MS. WANG: Maybe that's what we need
6 is international observers.

7 MR. GREENBAUM: It's a problem
8 because they can't get in the polling place in a
9 lot of the states. They even said that as part
10 of their report.

11 MR. ROKITA: Don't we add value to
12 this entire process, if you go and look at what
13 Paul just described and analyze it and present
14 it as an idea, isn't that what this is?

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15 MS. SIMS: That would be in the next
16 phase.

17 MS. WANG: All of this is in the next
18 phase.

19 MS. SIMS: Looking at the project
20 that the Commission decides to pursue and the
21 boards are happy with that idea.

22 MR. HEARNE: What is the next step 189

1 from here?

2 MS. SIMS: If we're all done with
3 ideas.

4 MR. ROKITA: I just wanted to get a
5 couple more things done to finish up my last
6 point. We're not sure that fraud at the polling
7 place doesn't exist. We can't conclude that.
8 That is my last point.

9 There has been a discussion about a
10 political science professor being utilized. I
11 think the EAC needs to be very careful in who
12 they select, because all the time and effort and
13 money that's been spent up to date and would be
14 spent in the future could be invalidated by a
15 wrong selection in the eyes of some group. So
16 whether you have two folks, political science
17 professors, however you decide to work it,
18 please research, you, as a taxpayer, to be
19 careful who you pick.

20 I thank you.

21 MR. PEREZ: I'd like to make a
22 statement. I am not a lawyer so I don't know

1 how far this would fly. If you're trying to
2 query on developing statistical data, why don't
3 you put a question on the ballot? Everybody
4 walk in, I believe this election was fair. No,
5 I believe there was fraud here. Just ask them.

6 MR. DONSANTO: How are they supposed
7 to know that until the election has been run?

8 MR. PEREZ: They have already been
9 intimidated while they are casting their ballot.

10 CHAIRMAN DEGREGORIO: How about if
11 there is a none of the above on the ballots?

12 MR. GINSBERG: It would be really
13 good for business.

14 MR. PEREZ: If they come in, I would
15 want to vote for that one. Really, you're
16 trying to get statistics from the voters, trying
17 to get them outside, trying to catch them
18 inside, catch them on the ballot.

19 MS. SIMS: well, the next step is
20 that our two consultants would be consolidating
21 the preliminary research that they have and also
22 the working group's deliberation in his order to
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1 present a report to our Commissioners. And our
2 Commissioners will, obviously, take a look at
3 that.

4 And then when you deem it's ready,
5 we'll have it sent out to our Board of Advisors
6 and our Standards Board for their review and

7 comment. HAVA does mandate that our research
8 efforts are supposed to be reviewed by our
9 boards. Depending on what we get back, and what
10 the Commissioners decide to do, and what kind of
11 budget we get, then we may be able to prioritize
12 some of the ideas or determine which ones we can
13 do. Inevitably, they are going to have to be
14 below a certain dollar limit. And so we would
15 put the project out, put an RFP up.

16 In terms of people who would lean one
17 way or another, we would take a look at that
18 when we're writing the RFP to determine that the
19 team has different points of views.

20 CHAIRMAN DEGREGORIO: We have also
21 set some peer review groups for many of our
22 studies that have a balance of folks, academics
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1 particularly, to take a look at the work that's
2 being done by folks to make sure we're being
3 looked at by people who have different
4 philosophies, different viewpoints.

5 MS. SIMS: And depending on what
6 we're able to do, we may or may not get a
7 working group to work with us on that.
8 Generally, speaking it is wiser to get the
9 working group further in on the beginning.
10 We're bringing you in as the tail group, is a
11 little bit different than I am used to doing at
12 FEC. So we may take a look at that on whatever
13 we decide to do next on bringing the working
14 group together in the earlier phase to offer

15 their advice in an earlier stage.

16 Any questions about that? Well, I
17 want to thank you all very much for coming. I
18 know our consultants have really -- I'm sure
19 they have gotten a lot out of it. I have.

20 CHAIRMAN DEGREGORIO: I also want to
21 thank you too on behalf of the Commissioners who
22 couldn't be here today, to Tova and Job for your
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1 work thus far. This is an important item for
2 the Commissioners, and the we'll move on it
3 quickly. I suspect -- I don't know that we have
4 anything budgeted for 2006 for this but October
5 1 starts, we will have some funds, and we can do
6 some of the things that you all suggested we
7 should do to come up with further detailed study
8 of this. But this has been helpful just sitting
9 through here the last hour-and-a-half.

10 I was director of elections in St.
11 Louis County. Craig, we had some federal
12 prosecutions. We had plenty of nursing home
13 absentee fraud. I was in St. Louis County, but
14 a lot of it came at the local level. When
15 you're running for police chief in the city,
16 that's where we saw a lot of the election fraud
17 too, but it occurred in the federal elections.
18 We had people voting in 1988. So those things
19 happened, so I have seen it myself.

20 I am also aware of things that you
21 pointed out here, these kinds of things. This
22 is awful for people to try to trick people in
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1 ways like this, to keep them from participating
2 in our democracy. That's just not right. It's
3 wrong.

4 MR. DONSANTO: I am aware of this
5 one.

6 CHAIRMAN DEGREGORIO: We don't want
7 that to happen.

8 MR. DONSANTO: We're unable to find
9 out who did it.

10 CHAIRMAN DEGREGORIO: We appreciate
11 your work, hope this will continue in some
12 fashion, that you all can be participants in
13 what we do next. Thank you for your time today.

14 MS. SIMS: I also want to know for
15 those who are traveling out of town, Devon put
16 an information package for you on how you turn
17 over the receipts that we need, so we can make
18 sure you get money. And if you have any
19 questions, please contact her about that.

20 MS. WANG: Thank you so much.

21 (Whereupon, at approximately 5:00 o'clock,
22 p.m., the meeting adjourned.)

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CERTIFICATE OF COURT REPORTER

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I, Jackie Smith, court reporter in and for
the District of Columbia, before whom the foregoing
meeting was taken, do hereby certify that the
meeting was taken by me at the time and place
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Transcript 051806

8 mentioned in the caption hereof and thereafter
9 transcribed by me; that said transcript is a true
10 record of the meeting.

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Jackie Smith

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To: Karen Lynn-Dyson and Tom Wilkey
From: Tova Wang, Job Serebrov, Stephen Ansolabehere
Re: Preliminary Work Plan
Date: September 7, 2005

The following is a preliminary work plan and division of labor for the project on voter fraud and voter intimidation:

MONTH ONE (beginning the date contracts are finalized):

- I. Defining Fraud/Intimidation
 - a. In person meeting and discussion among consultants to:
 - i. Determine what we believe the parameters of the terms fraud and intimidation should be for our research purposes. (All)
 - ii. Create a list of state and local officials, third party representatives, attorneys, scholars, etc. to interview and/or survey to assist in this process of definition (All)
 - b. Interviews of individuals identified as having expertise (Job and Tova)
 - c. Analysis of existing research (Job and Tova)
- II. Obtaining research assistance (e.g. interns, law clerks) (All)

MONTH TWO:

- III. Examining the Feasibility of Quantifying the Level of Incidence of Different Types of Fraud
 - a. Looking at how we can develop a statistically sound research instrument
 - i. Discussion with political and social scientists, legal scholars in the field (Tova and Steve)
 - b. Determination as to information that would be required for a potential survey; identification of potential survey states to ensure a fair representation of different systems (All)
 - c. Preliminary survey of case law of recent prosecutions for fraud/intimidation (Job)
 - d. Interviews with state and local officials, third party groups, election lawyers to assess what they believe are the most prevalent problems (All)

MONTH THREE:

- IV. Preliminary assessment of the federal, state and local legal capacity to handle fraud and intimidation cases
 - a. Case law research (Job)
 - b. Survey of current state election codes (Tova and Job)
 - c. Analysis of Department of Justice Civil Rights and Criminal Divisions work in this area (Tova)

- d. Survey and assessment of who has enforcement responsibility and accountability in each state and the extent to which that entity exercises that authority (All)

MONTH FOUR:

- V. Report of Preliminary Findings (Tova and Job)
- VI. Assembling the Working Group
 - a. Developing a list of potential members (All)
 - b. Development of a work plan and set of issues for examination for the working group (All)

Potential Working Group Members – Initial Suggestions:

Lori Minnite, Barnard College
Allan Lichtman, American University
David Orr, Cook County Clerk (Chicago)
Judith Browne, The Advancement Project
Cathy Cox, Secretary of State, Georgia
Jonah Goldman, Lawyers Committee for Civil Rights
Christopher Edley, Dean, Berkeley School of Law
Daniel Tokaji, Moritz College of Law, The Ohio State University
Spencer Overton, George Washington School of Law
Wade Henderson, Lawyers Committee for Civil Rights

To: Peggy Sims, Gavin Gilmour, Karen Lynn-Dyson and Tom Wilkey
From: Tova Wang, Job Serebrov
Re: Work Plan
Date: October 5, 2005

The following is a work plan and division of labor for the project on voter fraud and voter intimidation:

MONTH ONE (beginning the date contracts are finalized):

- I. Draft project work plan
- II. Develop list of potential members of the working group; have EAC vet and approve names (Tova, Job, EAC)
- III. Define Fraud/Intimidation (Tova and Job)
 - a. Discussion among consultants to:
 - i. Determine what we believe the parameters of the terms fraud and intimidation should be for our research purposes.
 - ii. Create a list of state and local officials, third party representatives, attorneys, scholars, etc. to interview and/or survey to assist in this process of definition
 - b. Analysis of existing research (Tova and Job)
- IV. Obtain research assistance (e.g. interns, law clerks) (EAC)

MONTH TWO:

- V. Interview individuals identified in month one about the scope of fraud and intimidation (Job and Tova);
- VI. Create working written description of what fraud and intimidation means, includes/does not include (Job and Tova)
- VII. Examine the Feasibility of Quantifying the Level of Incidence of Different Types of Fraud
 - a. Look at how we can develop a statistically sound research instrument
 - i. Discussion with political and social scientists, legal scholars in the field (Tova)
 - b. Preliminary survey of case law of recent prosecutions for fraud/intimidation (Job/law clerk)
 - c. Interviews with state and local officials, third party groups, election lawyers to assess what they believe are the most prevalent problems (Job and Tova)

MONTH THREE:

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- VIII. Preliminary assessment of the federal, state and local legal capacity to handle fraud and intimidation cases
- a. Case law research (Job)
 - b. Survey of current state election codes (Tova and Job)
 - c. Analysis of Department of Justice Civil Rights and Criminal Divisions work in this area (Tova)

MONTH FOUR:

- IX. Written summary of background research on voting fraud and intimidation (Tova and Job)
- X. Development of a work plan and set of issues for examination for the working group (Tova and Job)
- XI. Finalize working group membership and set meeting dates

MONTH FIVE:

- XII. Initial working group meetings

MONTH SIX:

- XIII. Develop project scope of work and project work plan
- XIV. Draft summary report describing key findings of this preliminary study of voting fraud and voter intimidation

Contact James Joseph, Arnold & Porter – (202) 942-5355,
james_joseph@aporter.com

**Tova Andrea Wang, Co-Author of the Voter Fraud and Voter Intimidation Report
for the Election Assistance Commission, Calls for an End to the Censorship**

Over the last few weeks, there has been a developing controversy in the press and in the Congress over a report on voter fraud and voter intimidation I co-authored for the Election Assistance Commission (“EAC”). It has been my desire to participate in this discussion and share my experience as a researcher, expert and co-author of the report. Unfortunately, the EAC has barred me from speaking. Early last week, through my attorney, I sent a letter to the Commission requesting that they release me from this gag order. Despite repeated follow-up, the EAC has failed to respond to this simple request. In the meantime, not only can I not speak to the press or public -- it is unclear under the terms of my contract with the EAC whether I can even answer questions from members of Congress.

My co-author and I submitted our report in July 2006; the EAC finally released its version of the report in December 2006. As numerous press reports indicate, the conclusions that we found in our research and included in our report were revised by the EAC, without explanation or discussion with me, my co-author or the general public. From the beginning of the project to this moment, my co-author and I have been bound in our contracts with the EAC to silence regarding our work, subject to law suits and civil liability if we violate the EAC-imposed gag order. Moreover, from July to December, no member of the EAC Commission or staff contacted me or my co-author to raise any concerns about the substance of our research. Indeed, after I learned that the EAC was revising our report before its public release, I contacted the EAC, and they refused to discuss with me the revisions, or the reasons such revisions were necessary.

Stifling discussion and debate over this report and the critical issues it addresses is contrary to the mission and goals of the EAC and to the goal of ensuring honest and fair elections in this country. Commissioner Hillman stated in her defense of the EAC’s actions that the EAC seeks to “ensure improvements in the administration of federal elections so that all eligible voters will be able to vote and have that vote recorded and counted accurately.” I share this aspiration. But I believe that the best way to achieve that end is not by suppressing or stifling debate and discussion, but by engaging in a thoughtful process of research and dialogue that ultimately arrives at the truth about the problems our voting system currently confronts.



U.S. ELECTION ASSISTANCE COMMISSION

**Status Report on the
Voting Fraud-Voter Intimidation Research
Project**

May 17, 2006

**Deliberative Process
Privilege**

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INTRODUCTION

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.

FOCUS OF CURRENT RESEARCH

In September 2005, the Commission hired two consultants with expertise in this subject matter, Job Serebrov and Tova Wang, to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

As of the date of this report, the consultants have drafted a definition of election fraud, reviewed relevant literature and reports, interviewed persons from government and private sectors with subject matter expertise, analyzed news reports of alleged election fraud, reviewed case law, and established a project working group.

DEFINITION OF ELECTION FRAUD

The consultants drafted a definition of election fraud that includes numerous aspects of voting fraud (including voter intimidation, which is considered a subset of voting fraud) and voter registration fraud, but excludes campaign finance violations and election administration mistakes. This draft will be discussed and probably refined by the project working group, which is scheduled to convene on May 18, 2006.

LITERATURE REVIEW

The consultants found many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. They found little research that is truly systematic or scientific. The most systematic look at fraud appears to be the report written by Lori Minnite, entitled "Securing the Vote: An Analysis of Election Fraud". The most systematic look at voter intimidation appears to be the report by Laughlin McDonald, entitled "The New Poll Tax". The consultants found that books written about this subject all seem to have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Moreover, the consultants found that reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book, "Stealing Elections".

Consultants found that researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate; but some reports say it is a major problem, albeit hard to identify.

- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

Recommendations

The consultants recommend that subsequent EAC research include a follow up study of allegations made in reports, books and newspaper articles. They also suggest that the research should focus on filling the gap between the lack of reports based on methodical studies by social or political scientists and the numerous, but less scientific, reports published by advocacy groups.

INTERVIEWS

The consultants jointly selected experts from the public and private sector for interviews. The consultants' analysis of their discussions with these members of the legal, election official, advocacy, and academic communities follows.

Common Themes

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud,

although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.

- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate that, for various reasons, DOJ is bringing fewer voter intimidation and suppression cases now, and has increased its focus on matters such as noncitizen voting, double voting, and felon voting. Interviews with DOJ personnel indicate that the Voting Section, Civil Rights Division, focuses on systemic patterns of malfeasance in this area. While the Election Crimes Branch, Public Integrity Section, continues to maintain an aggressive pursuit of systematic schemes to corrupt the electoral process (including voter suppression), it also has increased prosecutions of individual instances of felon, alien, and double voting.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

Common Recommendations:

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed.
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.

- With respect to DOJ's Voting Section, Civil Rights Division, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one's definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and his office has not pursued any such cases.
- Craig Donsanto of DOJ's Election Crimes Branch, Public Integrity Section, says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases DOJ is investigating and the number of indictments his office is pursuing are both up dramatically. Since 2002, in addition to pursuing systematic election corruption schemes, DOJ has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so that his agency can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment.
- Several people advocate passage of Senator Barak Obama's "deceptive practices" bill.
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected as non partisan officials, they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas are a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.

- A few recommend returning to allowing use of absentee ballots "for cause" only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the proposal in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

NEWS ARTICLES

Consultants conducted a Nexis search of related news articles published between January 1, 2001 and January 1, 2006. A systematic, numerical analysis of the data collected during this review is currently being prepared. What follows is an overview of these articles provided by the consultants.

Absentee Ballots

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

Voter Registration Fraud

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people;
- Fake names and other information on voter registration forms;
- Illegitimate addresses used on voter registration forms;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms depending on the party the voter registered with.

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota, and Wisconsin.

Voter Intimidation and Suppression

This is the area which had the most articles, in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;

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- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate; and
- Insufficient voting machines and unmanageably long lines.

Although the incidents reported on occurred everywhere, not surprisingly, many came from "battleground" states. There were several such reports out of Florida, Ohio, and Pennsylvania.

"Dead Voters and Multiple Voting"

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials, and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person took criminal advantage of that. In total, the San Francisco Chronicle found five such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

Vote Buying

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations concentrated in three states (Illinois, Kentucky, and West Virginia). There were more official investigations, indictments and convictions/pleas in this area.

Deceptive Practices

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of completed voter registration applications. There were no reports of prosecutions or any other legal proceeding.

Non-citizen Voting

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case, charges were filed against ten individuals. In another case, a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this Nexis search, remained just allegations of noncitizen voting.

Felon Voting

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem was the large number of ineligible felons that remained on the voting list.

Election Official Fraud

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one

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instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

Recommendation

The consultants recommend that subsequent EAC research should include a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

CASE LAW RESEARCH

After reviewing over 40,000 cases from 2000 to the present, the majority of which came from appeals courts, the consultants found comparatively few applicable to this study. Of those that were applicable, the consultants found that no apparent thematic pattern emerges. However, it appears to them that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility.

Recommendation

Because so few cases provided a picture of these current problems, consultants suggest that subsequent EAC research include a review of state trial-level decisions.

PROJECT WORKING GROUP

Consultants and EAC worked together to select members for the Voting Fraud-Voter Intimidation Working Group that included election officials and representatives of advocacy groups and the legal community who have an interest and expertise in the subject matter. (See Attachment A for a list of members.) The working group is scheduled to convene at EAC offices on May 18, 2006 to consider the results of the preliminary research and to offer ideas for future EAC activities concerning this subject.

FINAL REPORT

After convening the project working group, the consultants will draft a final report summarizing the results of their research and the working group deliberations. This report will include recommendations for future EAC research related to this subject matter. The draft report will be reviewed by EAC and, after obtaining any clarifications or corrections deemed necessary, will be made available to the EAC Standards Board and EAC Board of Advisors for review and comment. Following this, a final report will be prepared.

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Attachment A

Voting Fraud-Voter Intimidation Project Working Group

The Honorable Todd Rokita

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

Kathy Rogers

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

J.R. Perez

Guadalupe County Elections Administrator, TX

Barbara Arnwine

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)

Robert Bauer

Chair of the Political Law Practice at the law firm of Perkins Coie, DC

National Counsel for Voter Protection, Democratic National Committee

Benjamin L. Ginsberg

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

Mark (Thor) Hearne II

Partner-Member, Lathrop & Gage, St Louis, MO

National Counsel to the American Center for Voting Rights

Barry Weinberg

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S. Department of Justice

EAC Invited Technical Advisor:

Craig Donsanto

Director, Election Crimes Branch, U.S. Department of Justice

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Voting Fraud-Voter Intimidation Preliminary Research

Status Report



Voting Fraud-Voter Intimidation Research STATUTORY AUTHORITY

The Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].



EAC Voting Fraud-Voter Intimidation Research

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.



EAC Voting Fraud-Voter Intimidation Research

CURRENT RESEARCH FOCUS

2 consultants (bipartisan) focused on:

- Drafting a definition of election fraud;
- Conducting background research (literature, news stories, case law, interviews of knowledgeable persons from the public and private sector); and
- Convening a working group of bipartisan and nonpartisan representatives of election officials, advocates, and the legal community to review preliminary research and brainstorm ideas for future EAC activities.



EAC Voting Fraud-Voter Intimidation Research LITERATURE FINDINGS

- Little of the research is truly systematic or scientific.
- Many documents make allegations but have little follow up.
- Books written about this subject seem to have a political bias and a pre-existing agenda that make them somewhat less valuable.



EAC Voting Fraud-Voter Intimidation Research LITERATURE FINDINGS

- There is substantial concern about **absentee balloting** and the opportunity it presents for fraud.
- There is tremendous disagreement about the extent to which **polling place fraud** (e.g. double voting, intentional felon voting, noncitizen voting) is a serious problem.



EAC Voting Fraud-Voter Intimidation Research LITERATURE FINDINGS

- **Voter intimidation** continues to be focused on minority communities, although one report mentions schemes against a major political party.
- **Deceptive practices** (e.g.: targeted flyers and phone calls providing misinformation) were reported to be a major problem in 2004.



EAC Voting Fraud-Voter Intimidation Research LITERATURE FINDINGS

- **Federal law** governing election fraud and intimidation is varied and complex; yet may be insufficient or subject to too many limitations to be as effective as it might be.



EAC Voting Fraud-Voter Intimidation Research INTERVIEWS

Consultants interviewed numerous individuals from the **public** and **private** sector who have some experience in researching, investigating and prosecuting, or observing incidents.

They included experts from the **legal, election official, advocacy, and academic** communities.



EAC Voting Fraud-Voter Intimidation Research INTERVIEW FINDINGS

- Virtually universal agreement that **absentee ballot fraud** is the biggest problem.
- **Vote buying** and **voter registration fraud** are considered the next most common problems
- Some disagreement over prevalence of **polling place voting fraud**.



EAC Voting Fraud-Voter Intimidation Research INTERVIEW FINDINGS

Intimidation/Suppression –

- **Biggest intimidation/suppression concerns: abuse of challenger laws and abusive challengers.**
- **Some continued outright intimidation and suppression, especially in some Native American communities, and of poll workers engaging in harassment of minority voters.**
- **Other concerns: polling places being moved at the last moment; videotaping of voters at the polls; and targeted misinformation campaigns.**



EAC Voting Fraud-Voter Intimidation Research INTERVIEW FINDINGS

- Common problems: badly kept **voter registration lists**, with both ineligible voters remaining on the rolls and eligible voters being taken off.
- A few people also troubled by voters being on registration lists in two states.



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLES

- Nexis search of related news articles published between January 1, 2001 and January 1, 2006.
- Downside: often could not verify the truthfulness of the reports or how often actual convictions result from activities reported.



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

The most common allegations of **voter registration fraud** were:

- Registering in the name of dead people;
- Fake names and other information on voter registration applications;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms, depending on the party with which the voter registered.



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

Absentee ballots reportedly were abused in a variety of ways:

- Campaign workers, candidates and others coerced the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers, and individuals attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

Activities most commonly reported as **voter suppression** included:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;
- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate; and
- Insufficient voting machines and unmanageably long lines.



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

Dead Voters and Multiple Voting

- High number of articles.
- Often the problem resulted from administrative error: poll workers mismarking or failing to mark voter lists; flawed voter registration lists; and/or errors made in the attempt to match names of voters on the list with the names of the people who voted.



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

Multiple Voting

- Most cases involved a person voting both by absentee ballot and in person.
- A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists.
- In many instances, person charged claimed not to have voted twice on purpose.
- Small handful of cases involved a voter voting in more than one county, and there was one substantiated case involving a person voting in more than one state.



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

Dead Voters –

Problem lay in the voter registration list not being properly maintained (i.e.; the person was still on the registration list as eligible to vote, and a person took criminal advantage of that).



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

Vote Buying

- More official investigations, indictments and convictions/pleas reported in this area.
- Numerous of articles, a few of which involved long-time investigations concentrated in three states (Illinois, Kentucky, and West Virginia).



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

Deceptive Practices

- Numerous reports in 2004 of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote.

- Misinformation came in the form of
 - flyers,
 - phone calls,
 - letters, and
 - people going door to door.

- Many of the efforts reportedly targeted at minority communities.

- Disproportionate number of them came from key battleground states



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

Non-citizen Voter Registration & Voting

Few articles regarding noncitizen registration and voting
– just 7 cases in 7 different states across the country:

- 1 case - charges were filed against 10 individuals.
- 1 case - judge in a civil suit found there was illegal noncitizen voting.
- 3 instances - prompted official investigations.
- 2 cases - remained just allegations.



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

Felon Voting

- 13 cases of felon voting, some involving large numbers of voters.
- In several states, the main problem was the large number of ineligible felons that remained on the voting list.



EAC Voting Fraud-Voter Intimidation Research NEWS ARTICLE FINDINGS

Election Official Fraud

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is an administrative mistake or a crime.



EAC Voting Fraud-Voter Intimidation Research CASE LAW

Consultants reviewed cases from Federal courts and state courts of appeals from 2000 to the present.

Greatest areas of fraud and intimidation shifted from past patterns of stealing votes to present problems with:

- voter registration;
- voter identification;
- the proper delivery and counting of absentee and overseas ballots;
- provisional voting;
- vote buying; and
- challenges to felon eligibility.



EAC Voting Fraud-Voter Intimidation Research WORKING GROUP

8 member working group included bipartisan and nonpartisan members, and representatives of the election official, advocacy, and legal communities

Met May 18 to review preliminary research and brainstorm ideas for future EAC action.



EAC Voting Fraud-Voter Intimidation Research WORKING GROUP IDEAS

- Conduct surveys of:
 - All state laws
 - All state election offices
 - Specific states
 - Local election officials
 - State implementation of administrative complaint procedures (applies only to HAVA Title III violations) to identify examples of procedures for other than HAVA Title III complaints
 - Voters



EAC Voting Fraud-Voter Intimidation Research WORKING GROUP IDEAS

- Follow up on initial reports of fraud/intimidation from the Nexis search of news articles and literature review
- Research absentee balloting process issues, including methodology of “for cause” absentee voting



EAC Voting Fraud-Voter Intimidation Research WORKING GROUP IDEAS

- Conduct risk-analysis for voting fraud & voter intimidation
 - Who?
 - What part of process?
 - Which elections?
 - Ease of committing the fraud



EAC Voting Fraud-Voter Intimidation Research WORKING GROUP IDEAS

- Analyze
 - Phone logs from toll-free lines for election concerns
 - Federal observer reports
 - Local newspapers

- Conduct academic statistical research

- Research search and match procedures for voter registration list maintenance (subject to confirmation) to identify potential avenues for vote fraud



EAC Voting Fraud-Voter Intimidation Research WORKING GROUP IDEAS

- Research state district court actions
- Broaden scope of interviews to include district attorneys and more local election officials
- Explore the concept of election courts
- Develop model statutes



EAC Voting Fraud-Voter Intimidation Research

- **Do we have a complete picture?**
No! Preliminary research provides some pieces of the puzzle.
- **Will we ever have a complete picture?**
Probably not, but additional research could provide enough additional pieces so that we have a better sense of the whole picture.



EAC Voting Fraud-Voter Intimidation Research NEXT STEPS

- Consultants will draft a final report summarizing the results of their research and the working group deliberations.
- Report will include recommendations for future EAC research related to this subject matter.
- Report will be reviewed by EAC and, after obtaining any clarifications or corrections deemed necessary, will be made available to the EAC Standards Board and EAC Board of Advisors for review and comment.
- Following this, a final report will be prepared.



012577

U.S. ELECTION ASSISTANCE COMMISSION

**Status Report on the
Voting Fraud-Voter Intimidation Research
Project**

May 17, 2006

**Deliberative Process
Privilege**

INTRODUCTION

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority.

FOCUS OF CURRENT RESEARCH

In September 2005, the Commission hired two consultants with expertise in this subject matter, Job Serebrov and Tova Wang, to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

As of the date of this report, the consultants have drafted a definition of election fraud, reviewed relevant literature and reports, interviewed persons from government and private sectors with subject matter expertise, analyzed news reports of alleged election fraud, reviewed case law, and established a project working group.

DEFINITION OF ELECTION FRAUD

The consultants drafted a definition of election fraud that includes numerous aspects of voting fraud (including voter intimidation, which is considered a subset of voting fraud) and voter registration fraud, but excludes campaign finance violations and election administration mistakes. This draft will be discussed and probably refined by the project working group, which is scheduled to convene on May 18, 2006.

LITERATURE REVIEW

The consultants found many reports and books that describe anecdotes and draw broad conclusions from a large array of incidents. They found little research that is truly systematic or scientific. The most systematic look at fraud appears to be the report written by Lori Minnite, entitled "Securing the Vote: An Analysis of Election Fraud". The most systematic look at voter intimidation appears to be the report by Laughlin McDonald, entitled "The New Poll Tax". The consultants found that books written about this subject all seem to have a political bias and a pre-existing agenda that makes them somewhat less valuable.

Moreover, the consultants found that reports and books make allegations but, perhaps by their nature, have little follow up. As a result, it is difficult to know when something has remained in the stage of being an allegation and gone no further, or progressed to the point of being investigated or prosecuted or in any other way proven to be valid by an independent, neutral entity. This is true, for example, with respect to allegations of voter intimidation by civil rights organizations, and, with respect to fraud, John Fund's frequently cited book, "Stealing Elections".

Consultants found that researchers agree that measuring something like the incidence of fraud and intimidation in a scientifically legitimate way is extremely difficult from a methodological perspective and would require resources beyond the means of most social and political scientists. As a result, there is much more written on this topic by advocacy groups than social scientists.

Other items of note:

- There is as much evidence, and as much concern, about structural forms of disenfranchisement as about intentional abuse of the system. These include felon disenfranchisement, poor maintenance of databases and identification requirements.
- There is tremendous disagreement about the extent to which polling place fraud, e.g. double voting, intentional felon voting, noncitizen voting, is a serious problem. On balance, more researchers find it to be less of a problem than is commonly described in the political debate; but some reports say it is a major problem, albeit hard to identify.

- There is substantial concern across the board about absentee balloting and the opportunity it presents for fraud.
- Federal law governing election fraud and intimidation is varied and complex and yet may nonetheless be insufficient or subject to too many limitations to be as effective as it might be.
- Deceptive practices, e.g. targeted flyers and phone calls providing misinformation, were a major problem in 2004.
- Voter intimidation continues to be focused on minority communities, although the American Center for Voting Rights uniquely alleges it is focused on Republicans.

Recommendations

The consultants recommend that subsequent EAC research include a follow up study of allegations made in reports, books and newspaper articles. They also suggest that the research should focus on filling the gap between the lack of reports based on methodical studies by social or political scientists and the numerous, but less scientific, reports published by advocacy groups.

INTERVIEWS

The consultants jointly selected experts from the public and private sector for interviews. The consultants' analysis of their discussions with these members of the legal, election official, advocacy, and academic communities follows.

Common Themes

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud,

although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.

- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate that, for various reasons, DOJ is bringing fewer voter intimidation and suppression cases now, and has increased its focus on matters such as noncitizen voting, double voting, and felon voting. Interviews with DOJ personnel indicate that the Voting Section, Civil Rights Division, focuses on systemic patterns of malfeasance in this area. While the Election Crimes Branch, Public Integrity Section, continues to maintain an aggressive pursuit of systematic schemes to corrupt the electoral process (including voter suppression), it also has increased prosecutions of individual instances of felon, alien, and double voting.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

Common Recommendations:

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed.
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.

- With respect to DOJ's Voting Section, Civil Rights Division, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one's definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and his office has not pursued any such cases.
- Craig Donsanto of DOJ's Election Crimes Branch, Public Integrity Section, says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases DOJ is investigating and the number of indictments his office is pursuing are both up dramatically. Since 2002, in addition to pursuing systematic election corruption schemes, DOJ has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so that his agency can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud.
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment.
- Several people advocate passage of Senator Barak Obama's "deceptive practices" bill.
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected as non partisan officials, they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas are a problem that must be addressed in some fashion. Suggestions included moving election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.

- A few recommend returning to allowing use of absentee ballots “for cause” only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the proposal in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

NEWS ARTICLES

Consultants conducted a Nexis search of related news articles published between January 1, 2001 and January 1, 2006. A systematic, numerical analysis of the data collected during this review is currently being prepared. What follows is an overview of these articles provided by the consultants.

Absentee Ballots

According to press reports, absentee ballots are abused in a variety of ways:

- Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters.
- Workers for groups and individuals have attempted to vote absentee in the names of the deceased.
- Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times.

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

Voter Registration Fraud

According to press reports, the following types of allegations of voter registration fraud are most common:

- Registering in the name of dead people;
- Fake names and other information on voter registration forms;
- Illegitimate addresses used on voter registration forms;
- Voters being tricked into registering for a particular party under false pretenses; and
- Destruction of voter registration forms depending on the party the voter registered with.

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota, and Wisconsin.

Voter Intimidation and Suppression

This is the area which had the most articles, in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places;
- Improper demands for identification;

- Poll watchers harassing voters;
- Poll workers being hostile to or aggressively challenging voters;
- Disproportionate police presence;
- Poll watchers wearing clothes with messages that seemed intended to intimidate;
and
- Insufficient voting machines and unmanageably long lines.

Although the incidents reported on occurred everywhere, not surprisingly, many came from “battleground” states. There were several such reports out of Florida, Ohio, and Pennsylvania.

“Dead Voters and Multiple Voting”

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations turning out to be accurate according to investigations by the newspapers themselves, elections officials, and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person took criminal advantage of that. In total, the San Francisco Chronicle found five such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

Vote Buying

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations concentrated in three states (Illinois, Kentucky, and West Virginia). There were more official investigations, indictments and convictions/pleas in this area.

Deceptive Practices

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction of completed voter registration applications. There were no reports of prosecutions or any other legal proceeding.

Non-citizen Voting

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case, charges were filed against ten individuals. In another case, a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this Nexis search, remained just allegations of noncitizen voting.

Felon Voting

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem was the large number of ineligible felons that remained on the voting list.

Election Official Fraud

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one

instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.

Recommendation

The consultants recommend that subsequent EAC research should include a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

CASE LAW RESEARCH

After reviewing over 40,000 cases from 2000 to the present, the majority of which came from appeals courts, the consultants found comparatively few applicable to this study. Of those that were applicable, the consultants found that no apparent thematic pattern emerges. However, it appears to them that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility.

Recommendation

Because so few cases provided a picture of these current problems, consultants suggest that subsequent EAC research include a review of state trial-level decisions.

PROJECT WORKING GROUP

Consultants and EAC worked together to select members for the Voting Fraud-Voter Intimidation Working Group that included election officials and representatives of advocacy groups and the legal community who have an interest and expertise in the subject matter. (See Attachment A for a list of members.) The working group is scheduled to convene at EAC offices on May 18, 2006 to consider the results of the preliminary research and to offer ideas for future EAC activities concerning this subject.

FINAL REPORT

After convening the project working group, the consultants will draft a final report summarizing the results of their research and the working group deliberations. This report will include recommendations for future EAC research related to this subject matter. The draft report will be reviewed by EAC and, after obtaining any clarifications or corrections deemed necessary, will be made available to the EAC Standards Board and EAC Board of Advisors for review and comment. Following this, a final report will be prepared.

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Attachment A

Voting Fraud-Voter Intimidation Project Working Group

The Honorable Todd Rokita

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

Kathy Rogers

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

J.R. Perez

Guadalupe County Elections Administrator, TX

Barbara Arnwine

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)

Robert Bauer

Chair of the Political Law Practice at the law firm of Perkins Coie, DC

National Counsel for Voter Protection, Democratic National Committee

Benjamin L. Ginsberg

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

Mark (Thor) Hearne II

Partner-Member, Lathrop & Gage, St Louis, MO

National Counsel to the American Center for Voting Rights

Barry Weinberg

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S.

Department of Justice

EAC Invited Technical Advisor:

Craig Donsanto

Director, Election Crimes Branch, U.S. Department of Justice

Tova Wang/EAC

p 5. 2d bullet ..DOJ is bringing fewer intimidation and suppression cases now...

This clearly is a myth. The Department has brought two 11(b) cases, one of the two in this Administration. The focus of DOJ activity has shifted, in fact, to voter suppression as there are fewer cases over voter dilution (challenges to at-large election systems, etc.) being brought by anyone as the number of jurisdictions with at-large election systems has shrunk dramatically. This Administration has, in fact, brought far more voter-suppression cases in this Administration than ever in the past, including a majority of all cases under Sections 203 and 208 of the Act, and such key recent Section 2 cases as US v. City of Boston and US v. Long County, Georgia.

The Voting Section brings cases involving "systemic" discrimination because federal voting statutes focus on discriminatory action by local governments. It is criminal statutes that involve malfeasance by individuals. The difference is fundamental and key to understanding law enforcement

3d bullet.

The Voting Section of DOJ has taken action to address badly kept voter lists with recent lawsuits in Missouri and Indiana.

4th bullet

The Voting Section of DOJ has, by a large margin, included mandatory training of poll workers in avoiding discriminatory practices in more cases in this Administration than in its entire previous history.

Page 6 - first bullet

This is not true. Ms. Wang repeatedly declined to define intimidation, so that her questions were vague and unhelpful in defining or identifying problems. The facts:

The Voting Section is bringing more cases involving discrimination and violation of minority voters rights at the polls on election day than ever in its history - than in its entire history combined. That is indisputable.

The credibility of allegations depends on their specificity and corroboration. Questions as to intimidation and vote suppression are meaningless in the absence of a definition of discrimination.

Prior enforcement has indeed changed the landscape, especially in the Southeast; however, the fact that we are bringing record numbers of cases clearly shows that discrimination is not rare.

Challenges based on race and unequal implementation of ID rules are indeed actionable and we have brought lawsuits, such as in Boston and Long County; we have not identified instances of such discrimination in which we have not taken action..

**Deliberative Process
Privilege**

012589



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

Voting Fraud – Voter Intimidation Working Group Meeting Summary

Overview of Current Research Project

- Current research performed Tova Wang and Job Serebrov
 - the current research has been a challenge because of the need for the information to be collected and analyzed in a scientific manner
 - especially when working the “perception” of intimidation
- Both consultants cross-checked each others work in order to maintain a bipartisan balance
- Literature was anecdotal, not much follow-up on the articles
- No interviews with DA’s and only one interview with a judge
- Absentee ballots seemed to be the biggest problem
- The articles found that most of reported vote buying is concentrated in the Midwest and the South
- Very little non-citizen voting, dead voting and impersonation was reported

Purpose of Current Working Group

- To provide background information for current research
- To brainstorm for potential research ideas

Talking Points of Working Group

- Discussion of value of research because of the language of section 241 of HAVA; where is the methodology?
- History of the definition of “fraud”
- Most voter fraud happens outside of the polling centers
- Research must address existing problems, not perceived problems
- Intimidation is a subset of suppression, and considered to be physical or economic threat and/or coercion
- Suppression that is not a form of intimidation is intended to interfere with voting rights and the election process without physical or economic threat and/or coercion
- Department of Justice primarily investigated individual cases of voter fraud
- Risk analysis can be used as an indicator of legitimacy for the need to allocate funding to research in the area of voter fraud
- Current statewide database list will be useful in the deterrence of voter fraud

Ideas for Future EAC Activities

- Bipartisan observers/poll watchers
 - Used in the collection of data
 - Used to deter fraud
- Surveys
 - Survey of state laws
 - Specific states
 - Survey of local election officials
 - Voter surveys (this suggestion was rejected by the panel)
 - Survey state election offices
 - Survey use of administrative complaint procedures
- Follow up on initial reports of fraud/intimidation from the survey of news articles
- Better poll worker training
- Longer hours for polling centers
 - Including hours on weekends
- Fewer polling center locations
 - More qualified poll workers
- Absentee balloting process
 - Methodology of “for cause” absentee voting
- Risk-analysis for voting fraud
 - Who?
 - What part of process?
 - ease of use
 - Which elections?
- Broaden scope of interviews to local officials and district attorneys
- Analysis
 - Phone logs from toll-free lines for election concerns
 - Federal observer reports
 - Local newspapers
 - State District Court Cases
 - Determination of challenging a voter at the polls (in some states there is little or no cause required to challenge a voters eligibility)
- Academic statistical research
- Search and match procedures for voter registration list maintenance and voter fraud identification (subject to confirmation)
- Election courts
- Model statutes



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

OFFICE OF THE CHAIRMAN

October 19, 2006

Ralph G. Neas
President, People for the American Way Foundation
2000 M Street, NW
Suite 400
Washington, DC 20036

Via Facsimile Transmission ONLY
202-293-2672

RE: October 18, 2006 Letter

Dear Mr. Neas:

Your letter of October 18, 2006 requests the release of EAC's Voter Fraud and Intimidation Report. I would like to take this opportunity to clarify the purpose and status of this study.

In late 2005, EAC hired two consultants for the purpose of assisting EAC with two things: 1) developing a uniform definition of the phrase voter fraud, and 2) making recommendations on how to further study the existence, prosecution, and means of deterring such voter fraud. In May 2006, a status report on this study was given to the EAC Standards Board and EAC Board of Advisors during their public meetings. During the same week, a working group convened to react to and provide comment on the progress and potential conclusions that could be reached from the work of the two consultants.

The conversation at the working group meeting was lively on the very points that we were trying to accomplish as a part of this study, namely what is voter fraud and how do we pursue studying it. Many of the proposed conclusions that were suggested by the consultants were challenged by the working group members. As such, the consultants were tasked with reviewing the concerns expressed at the working group meeting, conducting additional research as necessary, and providing a draft report to EAC that took into account the working group's concerns and issues.

That draft report is currently being vetted by EAC staff. EAC will release a final report from this study after it has conducted a review of the draft provided by the consultants. However, it is important to remember the purpose of this study -- finding a uniform definition of voter fraud and making recommendations on how to study the existence, prosecution and deterrence of voter fraud -- as it will serve as the basis of the EAC report on this study.

Thank you for your letter. You can be assured that as soon as a final report on the fraud and intimidation study is available, a copy will be made available to the public.

Sincerely,

Paul S. DeGregorio
Chairman

Voter Fraud and Voter Intimidation

<u>EAC</u>	<u>Contractor</u>	<u>Primary</u>	<u>Project</u>
<u>C.O.R.</u>	<u>Contractor</u>	<u>Contact</u>	<u>Start Date</u>
	T. Wang	T. Wang	
P. Sims	J. Serebrov	J. Serebrov	09/01/05

<u>Month</u>	<u>Key Deliverables</u>
September-05	Draft project work plan, develop list of potential members for Working Group
October-05	Define Fraud/Intimidation, parameters of terms, creation of working written desc and does not include
November-05	EAC vets and approves working group names, formal requests made, agree on parties to interview or survey to assist in process of definition, research and review by T.Wang, J. Serebrov and EAC law clerk (case law/journal articles)
December-05	Face to face meeting at EAC re: review of November tasks, examine the feasibility of different types of fraud
January-06	Interviews with state and local officials, 3rd party groups, election lawyers to assist
February-06	Draft working group topics, written summary of background research. Initial work
March-06	Develop project scope of work, project work plan and draft summary report on key voting fraud and intimidation with input from working group.

012593

Working Group meeting – proposed materials and agenda:

- I. Materials to be sent third week in April
 - a. Cover letter from Peg
 - b. Agenda
 - c. List of interviewees
 - d. Summaries of interviews
 - e. Nexis charts + news summaries
 - f. Case charts
 - g. Summaries of existing literature
 - h. Methodology summary
 - i. Proposed fraud definitions

- II. Agenda
 - a. Overview and purpose of the project, including the phase 2
 - b. Purpose of the working group
 - c. Considering only the research performed by Job Serebrov and Tova Wang to date, what at this point say can we say about the incidence of fraud and intimidation since the 2000 election?
 - i. How much are certain forms of fraud being committed, including but not limited to:
 1. voter registration fraud
 2. polling place fraud
 3. vote buying
 4. absentee ballot fraud
 5. fraud in ballot counting
 - ii. How much are certain forms of voter intimidation and suppression being committed, including but not limited to:
 1. deceptive practices
 2. poll worker misconduct
 3. challengers
 - iii. Are there notable regional variations?
 - iv. Who seems to be committing these acts?
 1. voters
 2. political parties
 3. third party organizations
 4. elections officials
 5. candidates
 - v. Do local, state and federal authorities appear to be handling these matters effectively?

- d. What does the research to date fail to tell us that we still need to know?
- e. What are the group's thoughts on the proposed definitions of fraud?
- f. What is the most useful step(s) the EAC could take with respect to this issue?
- g. Specific advice on moving forward
 - i. Other than nexis and case research, are there other research tools available to investigate this topic? How could the nexis and case research be improved or expanded upon?
 - ii. Who else should be interviewed? Categories of people as well as specific recommendations
 - iii. What are your thoughts on the proposed social science methodologies? Do you have other suggestions?
 - iv. Should there be a review of state and federal statutes on this and an analysis of the strengths and weaknesses of existing laws?
 - v. Generally, what else could be done to more effectively get at the necessary data and information?

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 - a. Cover letter from Peg
 - b. Agenda
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 - i. Proposed fraud definitions

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Voting Fraud-Voter Intimidation Working Group

The Honorable Todd Rokita

Indiana Secretary of State

Member, EAC Standards Board and the Executive Board of the Standards Board

Kathy Rogers

Georgia Director of Elections, Office of the Secretary of State

Member, EAC Standards Board

J.R. Perez

Guadalupe County Elections Administrator, TX

Barbara Arnwine

Executive Director, Lawyers Committee for Civil Rights Under Law

Leader of Election Protection Coalition

(To be represented at May 18, 2006 meeting by Jon M. Greenbaum, Director of the Voting Rights Project for the Lawyers Committee for Civil Rights Under Law)

Robert Bauer

Chair of the Political Law Practice at the law firm of Perkins Coie, DC

National Counsel for Voter Protection, Democratic National Committee

Benjamin L. Ginsberg

Partner, Patton Boggs LLP

Counsel to national Republican campaign committees and Republican candidates

Mark (Thor) Hearne II

Partner-Member, Lathrop & Gage, St Louis, MO

National Counsel to the American Center for Voting Rights

Barry Weinberg

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S.

Department of Justice

EAC Invited Technical Advisor:

Craig Donsanto

Director, Election Crimes Branch, U.S. Department of Justice

May 12, 2006

J.R. Perez
Guadalupe County Elections Administrator
307 Court Street West
Seguin, TX 78156-1346

Dear Mr. Perez:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11th Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

012599

May 12, 2006

Kathy Rogers
Director of Elections
Office of the Secretary of State
West Tower, Suite 1104
2 Martin Luther King Jr. Drive, SE
Atlanta, GA 30334-1505

Dear Ms. Rogers:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11th Floor, Washington, DC.

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012600

May 12, 2006

The Honorable Todd Rokita
Secretary of State
State House, Room 201
200 West Washington Street
Indianapolis, IN 46204

Dear Secretary Rokita:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11th Floor, Washington, DC.

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- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

012601

May 12, 2006

Craig Donsanto
Director
Election Crimes Branch
U.S. Department of Justice
1400 New York Avenue, NW, 12th Floor
Washington, DC 20005

Dear Mr. Donsanto:

Thank you for agreeing to serve as a technical advisor for the Voting Fraud-Voter Intimidation Working Group. The first meeting of the Working Group will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11th Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

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- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

012602

May 12, 2006

Benjamin L. Ginsberg
Partner
Patton Boggs LLP
2550 M Street, NW
Washington, DC 20037

Dear Mr. Ginsberg:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11th Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

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EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

012603

[DATE]

Craig C. Donsanto
Director
Election Crimes Branch
U.S. Department of Justice
Bond Building
1400 New York Avenue, NW, 12th Floor
Washington, DC 20005

Dear Mr. Donsanto:

The U.S. Election Assistance Commission (EAC) requests that you advise and inform our efforts to research voting fraud and voter intimidation. As an expert in the prosecution of election crimes, your expertise and unique experience would be a valuable resource as we move forward.

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EAC is a federal agency established in accordance with section 201 of the Help America Vote Act of 2002 (HAVA), Public Law 107-252. HAVA requires EAC to conduct research regarding election administration issues. The election administration issues itemized in the statute include:

- Collecting nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for federal office [section 241(b)(6)].
- Identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

The EAC Board of Advisors, established in accordance with HAVA section 211, recommended that EAC place a high priority on these topics when initiating our research projects. Subsequently, EAC obtained the services of two consultants (Tova Wang and Job Serebrov) to:

- **Define Voting Fraud and Voter Intimidation** - develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of federal elections;
- **Research Available Resources** - perform background research (including federal and state administrative and case law review), identify current activities of key government agencies, civic and advocacy

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organizations regarding these topics, and summarize this research and all source documentation;

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- **Establish a Project Working Group** - in consultation with EAC, establish a working group composed of key individuals and representatives of organizations knowledgeable about voting fraud and voter intimidation, provide a description of what constitutes voting fraud and voter intimidation and the results of the background research to the group, and convene the group to discuss potential avenues for future EAC research on this topic;

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- **Produce a Report** - Provide a report to EAC summarizing the preliminary research and working group deliberations, including recommendations for future EAC research, if any;
- **Assist EAC in Initiating Future Research** - if EAC decides to pursue one or more recommendations for future research, draft the project scope and statement of work for the request for proposals.

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It would be most helpful if you could offer your expertise to our team of consultants and the EAC project manager, Peggy Sims. We will contact you to set up an initial interview, which will focus on the identification and prosecution of offenses involving voting fraud and voter intimidation, as well as possible resources on these subjects for our consultants' review. Our consultants and project manager may have follow up questions as the research proceeds. It also would be helpful if you would attend the working group meeting to contribute to their discussion.

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If you have any questions about the research or this request, please contact Peggy Sims by email at psims@eac.gov or by phone at 202-566-3120.

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Sincerely yours,

Gracia Hillman
Chair



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW - Suite 1100
Washington, DC 20005

May 12, 2006

MEMORANDUM

TO: EAC Commissioners

FROM: Peggy Sims, Election Research Specialist

SUBJECT: Voting Fraud-Voter Intimidation Working Group Meeting

The first meeting of the Voting Fraud-Voter Intimidation Working Group will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11th Floor, Washington, DC.

As you know, Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Consequently, in September 2005, EAC contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

012606

- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

For your information, the folder accompanying this letter includes a number of items related to our consultants' preliminary research and the upcoming meeting:

- a meeting agenda;
- a list of Working Group members;
- a draft definition of election fraud;
- a list of reports and literature reviewed;
- a summary of interviews conducted and a list of experts interviewed;
- a list of experts interviewed;
- an analysis of news articles researched through Nexis;
- a summary of Department of Justice, Public Integrity Section cases, October 2002-January 2006;
- an analysis of case law review;
- a summary of research methodology recommendations from political scientists and experts in the field; and
- a CD with summaries of individual reports and literature reviewed, summaries of individual interviews, charts and summaries of news articles, and case law summary charts.

Please let me know if you have any questions.

Enclosures

cc: Tom Wilkey, Executive Director
Julie Thompson-Hodgkins, General Counsel
Gavin Gilmour, Associate General Counsel



VOTING FRAUD-VOTER INTIMIDATION WORKING GROUP MEETING

Thursday, May 18, 2006

1:00 PM - 5:30 PM

**U.S. Election Assistance Commission
1225 New York Avenue, N.W., 11th Floor
Washington, D.C. 20005**

AGENDA

- | | |
|--------------------------|---|
| 1:00 PM - 1:30 PM | Introduction

EAC Authority
Overview and Purpose of Current Project
Purpose and Members of the Working Group
Related EAC Research |
| 1:30 PM - 2:00 PM | Review of Preliminary Research

Literature & Reports
Interviews
News Articles
Court Cases |
| 2:00 PM - 3:15 PM | Definition & Findings from Current Project Research |
| 3:15 PM - 3:30 PM | Break |
| 3:30 PM - 5:00 PM | Ideas for Future EAC Activities

Recommended Research Methodologies
Consultant Recommendations
Working Group Ideas |
| 5:00 PM - 5:30 PM | EAC Next Steps |

012608

May 12, 2006

Barbara Arnwine
Executive Director
Lawyers Committee for Civil Rights Under Law
1401 New York Avenue, NW, Suite 400
Washington, DC 20005

Dear Ms. Arnwine:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11th Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

012609

May 12, 2006

Robert F. Bauer
Partner
Perkins Coie, LLP
607 Fourteenth Street, NW
Washington, DC 20005-2011

Dear Mr. Bauer:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11th Floor, Washington, DC.

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EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

012610

[DATE]

Craig C. Donsanto
Director
Election Crimes Branch
U.S. Department of Justice
Bond Building
1400 New York Avenue, NW, 12th Floor
Washington, DC 20005

Dear Mr. Donsanto:

The U.S. Election Assistance Commission's (EAC) requests your assistance in our preliminary research on voting fraud and voter intimidation. You are recognized for your expertise in the prosecution of election crimes. The project requires the information and insights that you can offer.

EAC is a federal agency established in accordance with section 201 of the Help America Vote Act of 2002 (HAVA), Public Law 107-252. Among the duties that HAVA requires EAC to perform is the conduct of studies regarding election administration issues. The election administration issues itemized in the statute include:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

The EAC Board of Advisors, established in accordance with HAVA section 211, recommended that EAC place a high priority on these topics when initiating our research projects. Subsequently, EAC obtained the services of two consultants (Tova Wang and Job Serebrov) to:

- **Define Voting Fraud and Voter Intimidation** - develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;

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- **Research Available Resources** - perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- **Establish a Project Working Group** - in consultation with EAC, establish a Working Group composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation, provide a description of what constitutes voting fraud and voter intimidation and the results of the background research to the group, and convene the group to discuss potential avenues for future EAC research on this topic;
- **Produce a Report** - Provide a report to EAC summarizing the findings of the preliminary research effort and Working Group deliberations that includes recommendations for future EAC research, if any;
- **Assist EAC in Initiating Future Research** - if EAC decides to pursue one or more recommendations for future research, draft the project scope and Statement of Work for the Request for Proposals to be released on this research.

If you are available, our team of consultants and the EAC project manager, Peggy Sims, will contact you to set up an initial interview. This interview will focus on the identification and prosecution of offenses involving voting fraud and voter intimidations, as well as possible resources on these subjects for our consultants' review. Our consultants and project manager may have follow up questions as the research proceeds. It also would be helpful if you could participate in the meeting of the project Working Group and contribute to their discussion.

If you have any questions about the research or this request, please contact Peggy Sims by email at psims@eac.gov or by phone at 202-566-3120.

Sincerely yours,

Gracia Hillman
Chair

012612

VOTING FRAUD-VOTER INTIMIDATION MEETING SEATING CHART

	Tova Wang EAC Consultant	Job Serebrov EAC Consultant	
The Honorable Todd Rokita Indiana Secretary of State			Peggy Sims EAC Staff & COTR
Robert Bauer Partner, Perkins Coie			Craig Donsanto Director, Election Crimes Branch, DOJ (<i>Technical Consultant</i>)
Mark (Thor) Hearne II Partner-Member, Lathrop & Gage			Ray Martinez EAC Vice Chairman
Jon Greenbaum Director, Voting Rights Project, Lawyers Committee for Civil Rights Under Law			Paul DeGregorio EAC Chairman
Benjamin Ginsberg Partner, Patton Boggs LLP			Gavin Gilmour EAC Associate General Counsel
Kathy Rogers Director of Elections, Georgia Office of the Secretary of State			Edgardo Cortés EAC Staff
	Barry Weinberg Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S. Department of Justice	J.R. Perez Guadalupe County Elections Administrator, TX	

VOTING FRAUD-VOTER INTIMIDATION PROJECT WORKING GROUP CONTACT INFORMATION AS OF 5-5-06

FIRST NAME	LAST NAME	TITLE	ADDRESS 1	ADDRESS 2	ADDRESS 3	CITY	STATE	ZIP	SALU-TATION	PHONE	FAX
Barbara	Arnwine	Executive Director	Lawyers Committee for Civil Rights Under Law	1401 New York Avenue, NW, Suite 400		Washington	DC	20005	Ms.	202-662-8300; Assistant (202) 662-8382	202-783-0857
Robert F.	Bauer	Partner	Perkins Coie, LLP	607 Fourteenth Street N.W.		Washington	DC	20005-2011	Mr.	202-434-1602	202-434-1690
Benjamin L.	Ginsberg	Partner	Patton Boggs LLP	2550 M Street, NW		Washington	DC	20037	Mr.	202-457-6405	202-457-6315
Mark (Thor)	Hearne II	Partner-Member	Lathrop & Gage, LC	The Equitable Building	10 South Broadway, Suite 1300	St. Louis	MO	63102-1708	Mr.	314-613-2522 Assistant Bethany (314) 613 - 2510	314-613-2550
J.R.	Perez	Elections Administrator	Guadalupe County	307 Court St. West		Seguin	TX	78156-1346	Mr.	830-303-6363	830-303-6373
Kathy	Rogers	Director of Elections	Office of the Secretary of State	West Tower Suite 1104	2 Martin Luther King, Jr. Drive, SE	Atlanta	GA	30334-1505	Ms.	404-657-5380	404-651-9531
Todd	Rokita	Secretary of State	State House, Room 201	200 West Washington Street		Indianapolis	IN	46204	Secretar	317-232-6531, Asst 317-232-6536	317-233-3283
Barry	Weinberg		5201 Roosevelt St.			Bethesda	MD	20814	Mr.	301-493-5343	

Technical Advisor											
Craig C.	Donsanto	Director	Election Crimes Branch	U.S. Department of Justice	1400 New York Avenue, NW, 12th Floor	Washington	DC	20005	Mr.	202-514-1421	202-514-3003

012614

EMAIL
Assistant : Valerie Johnson; vjohnson@lawyerscommittee.org Barbara Arnwine; barnwine@lawyerscommittee.org

Rbauer@perkinscoie.com;
dlovecchio@perkinscoie.com
(assistant: Donna Lovecchio)
bginsberg@pattonboggs.com

Assistant: Bethany
(bschuler@lathropgage.com)
mhearne@lathropgage.com

irperez50@sbcglobal.net
krogers@sos.state.ga.us
Nathan Cane, Executive Assistant assistant@sos.in.gov
weintr@verizon.net

Craig.Donsanto@usdoj.gov
--

Voting Fraud-Voter Intimidation Working Group Attendees
May 18, 2006

The Honorable Todd Rokita*

Indiana Secretary of State

Kathy Rogers*

Director of Elections, Georgia Office of the Secretary of State

J.R. Perez*

Guadalupe County Elections Administrator, TX

Jon Greenbaum*

Director, Voting Rights Project, Lawyers Committee for Civil Rights Under Law
*(Representing Working Group member Barbara Arnwine, Executive Director,
Lawyers Committee for Civil Rights Under Law and Leader of Election Protection
Coalition)*

Robert Bauer*

Partner, Perkins Coie

Benjamin Ginsberg*

Partner, Patton Boggs LLP

Mark (Thor) Hearne II

Partner-Member, Lathrop & Gage

Barry Weinberg*

Former Deputy Chief and Acting Chief, Voting Section, Civil Rights Division, U.S.
Department of Justice

EAC Invited Technical Advisor:

Craig Donsanto*

Director, Election Crimes Branch, U.S. Department of Justice

EAC Commissioners, Consultants & Staff

Job Serebrov*

EAC Consultant

Tova Wang*

EAC Consultant

Paul DeGregorio*

EAC Chairman

012618

Ray Martinez*
EAC Vice Chairman

Gavin Gilmour*
EAC Associate General Counsel

Peggy Sims*
EAC Staff

Edgardo Cortés*
EAC Staff

Elle Collver
EAC Staff

Devon Romig
EAC Intern

Will stop by to greet, but will not sit at table

Tom Wilkey
EAC Executive Director

Julie Thompson-Hodgkins
EAC General Counsel

*** To be seated at table with name tents.**

4 people from the Academic, Legal and Advocacy Sectors

Barbara Arnwine

- Executive Director of the Lawyers Committee for Civil Rights Under Law, an organization involved in the legal struggle to secure racial justice and equal access to the electoral process for all voters
- Led the Election Protection program for the last several years, a nationwide grassroots education and legal effort deploying thousands of volunteers and using a nationally recognized voter hotline to protect voters' rights on election day

Robert Bauer (D)

- Chair of the Political Law Practice at the law firm of Perkins Coie, DC.
- National Counsel for Voter Protection, Democratic National Committee.
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- Co-Author, Report of Counsel to the Senate Rules and Administration Committee in the Matter of the United States Senate Seat from Louisiana in the 105th Congress of the United States, (March 27, 1997).
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Mark (Thor) Hearne II (R)

- Partner-Member, Lathrop & Gage, St Louis, MO
- Counsel to Republican National Committee.
- National Counsel to American Center for Voting Rights.
- National election counsel to Bush-Cheney, '04.
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- Chairman, **New Jersey** Republican State Committee, 1977 – 1981.
- General Counsel, International Republican Institute
- Counsel, The Center for Democracy.
- Vice Chairman, Commission on Presidential Debates.

- Former Executive Director, New Jersey Election Law Enforcement Commission.

2 State Level Election Officials

Todd Rokita (R)

- **Indiana**; Secretary of State
- Member of EAC Standards Board and the Executive Board of the Standards Board

Kathy Rogers(D)

- **Georgia** Director of Elections, Office of the Secretary of State
- Member of EAC Standards Board

1 Nonpartisan Local Election Official

(Trying to confirm a nonpartisan local official from Texas or Arizona)

1 Representative from DOJ

(Trying to confirm the participation of Barry Weinberg, former Deputy Chief of the Voting Section, Civil Rights Division, DOJ, who is retired)

Craig Donsanto, Chief, Election Crimes Branch, DOJ will participate in this project as a technical advisor and therefore will not take up a slot on the working group, though we have asked him to be present during its discussions.

The Honorable Todd Rokita

Secretary of State
State House, Room 201
200 West Washington Street
Indianapolis, IN 46204
Phone: 317-232-6531
Fax 317-233-3283
Email:

Kathy Rogers

Director of Elections
Office of the Secretary of State
West Tower, Suite 1104
2 Martin Luther King, Jr. Drive, SE
Atlanta, GA 30334-1505
Phone: 404-656-2871
Fax: 404/651--9531
Email:

David A. Norcross

Blank Rome, LLP
Sustaining Member
Watergate, Twelfth Floor
600 New Hampshire Avenue, N.W.
Washington, DC 20037
Phone: 202 785-4100
Fax: 202 785-5588
Email: norcross@blankrome.com

May 12, 2006

Mark (Thor) Hearne II
Partner-Member
Lathrop & Gage, LC
The Equitable Building
10 South Broadway, Suite 1300
St. Louis, MO 63102-1708

Dear Mr. Hearne:

Thank you for agreeing to participate in the Voting Fraud-Voter Intimidation Working Group Meeting. This meeting will take place from 1:00 PM to 5:30 PM on Thursday, May 18th, 2006 at the offices of the U.S. Election Assistance Commission (EAC), 1225 New York Avenue, NW, 11th Floor, Washington, DC.

Section 241 of the Help America Vote Act of 2002 (HAVA) requires EAC to conduct research on election administration issues. Among the tasks listed in the statute is the development of:

- nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)].

EAC's Board of Advisors recommended that the agency make research on these matters a high priority. Subsequently, the Commission contracted with two consultants (Job Serebrov and Tova Wang) to:

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

012621

May 12, 2006

<FIRST NAME> <LAST NAME>
<TITLE>
<ADDRESS 1>
<ADDRESS 2>
<ADDRESS 3>
<CITY>, <STATE> <ZIP>

Dear <SALUTATION> <LAST NAME>:

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- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;

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- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

Your ideas for possible EAC activities related to this topic will help the agency as it plans future actions to meet its HAVA responsibilities.

For your information, the folder accompanying this letter includes:

- a meeting agenda;
- a list of Working Group members;
- a draft definition of election fraud;
- a list of reports and literature reviewed;
- a summary of interviews conducted and a list of experts interviewed;
- a list of experts interviewed;
- an analysis of news articles researched through Nexis;
- a summary of U.S. Department of Justice, Public Integrity Section cases, October 2002-January 2006;
- an analysis of case law review;
- a summary of research methodology recommendations from political scientists and experts in the field; and
- a CD with summaries of individual reports and literature reviewed, summaries of individual interviews, charts and summaries of news articles, and case law summary charts.

I look forward to having a productive meeting with you. If you have any questions, please do not hesitate to contact me by email (psims@eac.gov) or by telephone (1-866-747-1471, toll free, or 202-566-3120, direct).

Sincerely yours,

Peggy Sims
Election Research Specialist

Enclosures

Dear Job Serebrov

Some additional information: I have put together and run election day / ballot security programs in Oklahoma and North Carolina; I testified before the House Judiciary Committee on HAVA and also worked closely with Sen. Kit Bond's office & staff on the drafting of the Senate version of the legislation. I now serve as outside counsel to the National Republican Senatorial Committee and have been putting together the preliminary outline of the ballot security program for the 2006 election cycle, working with the Office of Public Integrity of the Dept of Justice on this very topic. Let me know if you want/need more information.

Thanks! Cleta

Cleta Mitchell

Washington, D.C.

cmitchell@foley.com

P 202.295.4081

Cleta Mitchell

Partner

Cleta Mitchell is a partner in the Washington, D.C. office of Foley & Lardner LLP as a member of the firm's Public Affairs Practice Group. Ms. Mitchell has more than 30 years of experience in law, politics and public policy. She advises corporations, nonprofit organizations, candidates, campaigns, and individuals on state and federal election and campaign finance law, and compliance issues related to lobbying, ethics and financial disclosure. Ms. Mitchell practices before the Federal Election Commission and similar federal and state enforcement agencies.

Ms. Mitchell was a member of the Oklahoma House of Representatives from 1976-1984 where she chaired the House Appropriations and Budget Committee. She served on the executive committee of the National Conference of State Legislatures.

Ms. Mitchell was in private law practice in Oklahoma City in litigation and administrative law until 1991 when she became director and general counsel of the Term Limits Legal Institute in Washington, D.C. She litigated cases in state and federal courts nationwide on congressional term limits. She served as co-counsel with former U.S. Attorney General Griffin Bell in the U.S. Supreme Court case on

**Deliberative Process
Privilege**

012624

term limits for members of Congress.

Ms. Mitchell represents numerous Republican candidates, campaigns and members of Congress, including Senator Elizabeth Dole (R-NC), Sen. Jim Inhofe (R-OK) Sen. David Vitter (R-LA), Rep. Roy Blunt (R-MO) and Rep. Tom Cole (R-OK), among others. She is legal counsel to the National Republican Senatorial Committee. Ms. Mitchell served as co-counsel for the National Rifle Association in the Supreme Court case involving the 2002 federal campaign finance law.

Ms. Mitchell has testified before Congress several times and is a frequent speaker and guest commentator on election law and politics. In 1999, she authored *The Rise of America's Two National Pastimes: Baseball and the Law*, published by the *University of Michigan Law Review*.

Ms. Mitchell received her B.A. (high honors, 1973) and J.D. (1975) from the University of Oklahoma. She is admitted to practice in the District of Columbia, the State of Oklahoma, the Supreme Court of the United States and federal district and appellate courts.

David A. Norcross

Present:

National Committeeman, New Jersey Republican State Committee
elected March 14, 1992

Attorney at Law, Blank Rome LLP, Trenton NJ, Washington D.C.
Senior Principal, Blank Rome Government Relations LLC

Previous:

Chairman, New Jersey Republican State Committee, 1977 – 1981

General Counsel, Republican National Committee, 1993 – 1997

General Counsel, International Republican Institute

Counsel, The Center for Democracy

Vice Chairman, Commission on Presidential Debates

Executive Director, New Jersey Election Law Enforcement Commission

Member, Twentieth Century Fund Task Force on the Presidential Debate Process

RNC:

RNC Northeastern State Chairmen's Association, 1977 – 1981;
Chairman, 1980 – 1981

Counsel, RNC Chairman Frank Fahrenkopf, 1983 – 1989

Counsel, Republican National Convention, 1988

RNC Committee on Arrangements, Republican National Convention, 1996

RNC Special Task Force on Primaries and Caucuses, 1996

Chairman, RNC Campaign Finance Task Force, 1997

Delegate, Republican National Convention, 1980, 1992, 1996, 2000, 2004

RNC Committee on Rules and Order of Business, Republican National Convention,
1992, 1996, 2000; 2004

Chairman, RNC Committee on Arrangements, Republican National Convention, 2004

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RNC Committee on Rules and Order of Business, 1992 -
Chairman, 2005 -

Personal:

Spouse: Laurie L. Michel

Children: Spencer, Victoria

Education: B.S., University of Delaware; L.L.B. University of Pennsylvania

Working Group One Line Information

I recommend the first four with an *

***Mark (Thor) Hearne II**-Counsel to Republican National Committee; National Counsel to American Center for Voting Rights; National election counsel to Bush-Cheney, '04; Testified before U.S. House Administration Committee hearings into conduct of Ohio presidential election; Academic Advisor to Commission on Federal Election Reform (Baker-Carter Commission).

***Todd Rokita**-Secretary of State, Indiana; Secretary Rokita strives to reform Indiana's election practices to ensure Indiana's elections are as fair, accurate and accessible as possible; Secretary Rokita serves on the nine-member Executive Board of the Election Assistance Commission Standards Board, charged by federal law to address election reform issues.

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***David A. Norcross**- Partner, Blank Rome LLP, Trenton NJ, Washington D.C; Chairman, New Jersey Republican State Committee, 1977 – 1981; General Counsel, Republican National Committee, 1993 – 1997; General Counsel, International Republican Institute; Counsel, The Center for Democracy; Vice Chairman, Commission on Presidential Debates; Executive Director, New Jersey Election Law Enforcement Commission

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National Republican Congressional Committee; His expertise is more in campaign finance.

Cleta Mitchell-Partner in the Washington, D.C. office of Foley & Lardner LLP; She advises corporations, nonprofit organizations, candidates, campaigns, and individuals on state and federal election and campaign finance law, and compliance issues related to lobbying, ethics and financial disclosure; Ms. Mitchell practices before the Federal Election Commission and similar federal and state enforcement agencies; Her expertise is more in campaign finance law.

Mark Braden-Of counsel at Baker & Hostetler; He concentrates his work principally on election law and governmental affairs, including work with Congress, the Federal Election Commission, state campaign finance agencies, public integrity issues, political broadcast regulation, contests, recounts, the Voting Rights Act, initiatives, referendums and redistricting; His expertise is mainly outside of the voter fraud area.

012629

4 PEOPLE FROM THE ACADEMIC, LEGAL and ADVOCACY SECTORS

Barbara Arnwine

- Executive Director of the Lawyers Committee for Civil Rights Under Law, an organization involved in the legal struggle to secure racial justice and equal access to the electoral process for all voters
- Led the Election Protection program for the last several years, a nationwide grassroots education and legal effort deploying thousands of volunteers and using a nationally recognized voter hotline to protect voters' rights on election day

Robert Bauer

- Chair of the Political Law Practice at the law firm of Perkins Coie, DC.
- National Counsel for Voter Protection, Democratic National Committee.
- Counsel to the Democratic Senatorial and Congressional Campaign Committees.
- Co-Author, Report of Counsel to the Senate Rules and Administration Committee in the Matter of the United States Senate Seat from Louisiana in the 105th Congress of the United States, (March 27, 1997).
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- General Counsel, International Republican Institute
- Counsel, The Center for Democracy.
- Vice Chairman, Commission on Presidential Debates.
- Former Executive Director, New Jersey Election Law Enforcement Commission.

012630

2 STATE LEVEL ELECTION OFFICIALS

Todd Rokita

- Indiana Secretary of State
- Member of EAC Standards Board and the Executive Board of the Standards Board

Kathy Rogers

- Georgia Director of Elections, Office of the Secretary of State
- Member of EAC Standards Board

1 NONPARTISAN LOCAL ELECTION OFFICIAL

~~(Trying to confirm a nonpartisan local official from Texas or Arizona)~~

1 REPRESENTATIVE FROM DOJ (RETIRED)

Barry Weinberg

- Deputy Chief (retired), Voting Section, Civil Rights Division, U.S. Department of Justice
- IFES consultant

NOTE:

Craig Donsanto, Director, Election Crimes Branch, U.S. Department of Justice will participate in this project as a technical advisor and therefore will not take up a slot on the working group, though we have asked him to be present during its discussions.

Bob Bauer, Perkins Coie, Democratic attorney
Cathy Cox, Secretary of State, Georgia
Barbara Arnwine, Lawyers Committee for Civil Rights under Law
Daniel Tokaji, Moritz College of Law, The Ohio State University
Wade Henderson, Leadership Conference for Civil Rights
Laughlin McDonald, ACLU Voting Rights Project
Wendy Weiser, Brennan Center
Donna Brazile, Brazile and Associates, LLC
Christopher Edley, Dean, Boalt Hall School of Law
Joseph Sandler, Sandler, Reif & Young

Alternates:

Chandler Davidson, Rice University
Jay Eads, Deputy Secretary of State, Mississippi
David Orr, Cook County Clerk
Allan Lichtman, American University
Miles Rapoport, Demos
Jonah Goldman, Lawyers Committee for Civil Rights

012632

To: Peggy Sims
From: Tova Wang
Re: Working Group Recommendations
Date: November 12, 2005

*Wendy R. Weiser, Associate Counsel in the Democracy Program at the Brennan Center for Justice at NYU School of Law and an expert in federal and constitutional law, has done a great deal of research, writing, speaking, and litigating on voting rights and election law issues. As part of the Brennan Center's wide ranging activities in the area of democracy, Ms. Weiser is currently overseeing an analysis and investigation of recent allegations of voter fraud throughout the country.

*Barbara Arnwine is Executive Director of the Lawyers Committee for Civil Rights Under Law, an organization that for four decades has been at the forefront of the legal struggle to secure racial justice and equal access to the electoral process for all voters. Notably, Ms. Arnwine and the organization have led the Election Protection program for the last several years, a nationwide grassroots education and legal effort deploying thousands of volunteers and using a nationally recognized voter hotline to protect voters' rights on election day.

*Daniel Tokaji, professor and associate director of the Election Law Center at the Moritz College of Law at the Ohio State University, is one of the nation's foremost experts in election law and reform and ensuring equality in the voting system. Professor Tokaji frequently writes and speaks on democracy related issues at academic and practitioner conferences, on such issues as voting technology, fraud, registration, and identification requirements, as well as the interplay between the election administration practices and voting rights laws.

Donna Brazile is Chair of the Democratic National Committee's Voting Rights Institute, the Democratic Party's major initiative to promote and protect the right to vote created in response to the irregularities of the 2000 election, and former Campaign Manager for Gore-Lieberman 2000 (the first African American to lead a major presidential campaign.) Brazile is a weekly contributor and political commentator on CNN's Inside Politics and American Morning, a columnist for Roll Call Newspaper and a contributing writer for Ms. Magazine.

Wade Henderson is the Executive Director of the Leadership Conference on Civil Rights (LCCR) and Counsel to the Leadership Conference on Civil Rights Education Fund (LCCREF), an organization at the forefront of defending voting rights for the last fifty years. Prior to his role with the Leadership Conference, Mr. Henderson was the Washington Bureau Director of the National Association for the Advancement of Colored People (NAACP)

Robert Bauer is the Chair of the Political Law Practice at the law firm of Perkins Coie, National Counsel for Voter Protection, Democratic National Committee, Counsel to the Democratic Senatorial and Congressional Campaign Committees and Co-Author, Report

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of Counsel to the Senate Rules and Administration Committee in the Matter of the United States Senate Seat from Louisiana in the 105th Congress of the United States, (March 27, 1997). He is the author of *United States Federal Election Law*, and one of the foremost attorneys in the country in the area of federal/state campaign finance and election laws.

Laughlin McDonald has been the executive director of the Southern Regional Office of the ACLU since 1972 and as the Director of the ACLU Voting Rights Project, McDonald has played a leading role eradicating discriminatory election practices and protecting the gains in political participation won by racial minorities since passage of the 1965 federal Voting Rights Act. During the past two decades, McDonald has broken new ground by expanding ACLU voting rights cases to include representation of Native Americans in various western states, and written innumerable publications on voting rights issues.

Joseph E. Sandler is a member of the firm of Sandler, Reiff & Young, P.C., in Washington, D.C., concentrating in campaign finance and election law matters, and general counsel to the Democratic National Committee. As an attorney he has handled campaign finance and election law matters for Democratic national and state party organizations, Members of Congress, candidates and campaigns. He served as general co-counsel of the Association of State Democratic Chairs, as general counsel for the Democratic Governors' Association and as counsel to several state Democratic parties.

Cathy Cox is serving her second term as Georgia's Secretary of State, having first been elected in 1998. In 2002 she earned re-election with over 61 percent of the vote, winning 146 out of 159 counties. Because of Secretary Cox's efforts Georgia has become a national leader in election reform. Her initiative made Georgia the first state in America to deploy a modern, uniform electronic voting system in every county

012634

4 people from the *Academic, Legal and Advocacy* sectors

Barbara Arnwine

Executive Director of the Lawyers Committee for Civil Rights Under Law, an organization that for four decades has been at the forefront of the legal struggle to secure racial justice and equal access to the electoral process for all voters. Notably, Ms. Arnwine and the organization have led the Election Protection program for the last several years, a nationwide grassroots education and legal effort deploying thousands of volunteers and using a nationally recognized voter hotline to protect voters' rights on election day.

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on the nine-member Executive Board of the Election Assistance Commission Standards Board, charged by federal law to address election reform issues.

(D)

(possibly Cathy Cox, **Georgia** Secretary of State or Kathy Rogers, Georgia Director of Elections)

1 Nonpartisan local election official

Texas county Election Administrator (looking at Webb County, or El Paso County, Helen Jamison)

or

Gilberto Hoyos, Pinal County, Arizona Elections Department Director (Does not do VR)
Gilbert B. Hoyos has served as Pinal County's Election Director since April 12, 1982. A native of Douglas, Arizona, he has over 25 years experience in government, in conducting and administering elections. He attended the University of Arizona and was hired part-time by Pima County in 1970 as an Election Technician. In 1973 Pima County placed him on permanent status where he served in numerous election positions.

Mr. Hoyos is a member of the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT), Election Officials of Arizona and the Arizona Association of Counties. He is presently State Delegate Director of the Arizona IACREOT Delegation, President of the Election Officials of Arizona, serves on the Federal Election Commission's Advisory Board, is a member of the State of Arizona Certification of Election Officers Committee and served on the Arizona Election Law Revision Committee.

1 Representative from DOJ

Barry Weinberg ???

012636

Possible Working Group Members - Serebrov

I recommend the first four with an *

***Mark (Thor) Hearne II**-Counsel to Republican National Committee; National Counsel to American Center for Voting Rights; National election counsel to Bush-Cheney, '04; Testified before U.S. House Administration Committee hearings into conduct of Ohio presidential election; Academic Advisor to Commission on Federal Election Reform (Baker-Carter Commission).

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To: Peggy Sims
From: Tova Wang
Re: Working Group Recommendations
Date: November 12, 2005

*Wendy R. Weiser, Associate Counsel in the Democracy Program at the Brennan Center for Justice at NYU School of Law and an expert in federal and constitutional law, has done a great deal of research, writing, speaking, and litigating on voting rights and election law issues. As part of the Brennan Center's wide ranging activities in the area of democracy, Ms. Weiser is currently overseeing an analysis and investigation of recent allegations of voter fraud throughout the country.

*Barbara Arnwine is Executive Director of the Lawyers Committee for Civil Rights Under Law, an organization that for four decades has been at the forefront of the legal struggle to secure racial justice and equal access to the electoral process for all voters. Notably, Ms. Arnwine and the organization have led the Election Protection program for the last several years, a nationwide grassroots education and legal effort deploying thousands of volunteers and using a nationally recognized voter hotline to protect voters' rights on election day.

*Daniel Tokaji, professor and associate director of the Election Law Center at the Moritz College of Law at the Ohio State University, is one of the nation's foremost experts in election law and reform and ensuring equality in the voting system. Professor Tokaji frequently writes and speaks on democracy related issues at academic and practitioner conferences, on such issues as voting technology, fraud, registration, and identification requirements, as well as the interplay between the election administration practices and voting rights laws.

Donna Brazile is Chair of the Democratic National Committee's Voting Rights Institute, the Democratic Party's major initiative to promote and protect the right to vote created in response to the irregularities of the 2000 election, and former Campaign Manager for Gore-Lieberman 2000 (the first African American to lead a major presidential campaign.) Brazile is a weekly contributor and political commentator on CNN's Inside Politics and American Morning, a columnist for Roll Call Newspaper and a contributing writer for Ms. Magazine.

Wade Henderson is the Executive Director of the Leadership Conference on Civil Rights (LCCR) and Counsel to the Leadership Conference on Civil Rights Education Fund (LCCREF), an organization at the forefront of defending voting rights for the last fifty years. Prior to his role with the Leadership Conference, Mr. Henderson was the Washington Bureau Director of the National Association for the Advancement of Colored People (NAACP)

Robert Bauer is the Chair of the Political Law Practice at the law firm of Perkins Coie, National Counsel for Voter Protection, Democratic National Committee, Counsel to the Democratic Senatorial and Congressional Campaign Committees and Co-Author, Report

of Counsel to the Senate Rules and Administration Committee in the Matter of the United States Senate Seat from Louisiana in the 105th Congress of the United States, (March 27, 1997). He is the author of *United States Federal Election Law*, and one of the foremost attorneys in the country in the area of federal/state campaign finance and election laws.

Laughlin McDonald has been the executive director of the Southern Regional Office of the ACLU since 1972 and as the Director of the ACLU Voting Rights Project, McDonald has played a leading role eradicating discriminatory election practices and protecting the gains in political participation won by racial minorities since passage of the 1965 federal Voting Rights Act. During the past two decades, McDonald has broken new ground by expanding ACLU voting rights cases to include representation of Native Americans in various western states, and written innumerable publications on voting rights issues.

Joseph E. Sandler is a member of the firm of Sandler, Reiff & Young, P.C., in Washington, D.C., concentrating in campaign finance and election law matters, and general counsel to the Democratic National Committee. As an attorney he has handled campaign finance and election law matters for Democratic national and state party organizations, Members of Congress, candidates and campaigns. He served as general co-counsel of the Association of State Democratic Chairs, as general counsel for the Democratic Governors' Association and as counsel to several state Democratic parties.

Cathy Cox is serving her second term as Georgia's Secretary of State, having first been elected in 1998. In 2002 she earned re-election with over 61 percent of the vote, winning 146 out of 159 counties. Because of Secretary Cox's efforts Georgia has become a national leader in election reform. Her initiative made Georgia the first state in America to deploy a modern, uniform electronic voting system in every county

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MARK F. (THOR) HEARNE, II

Professional

1997 – Current Partner - Member Saint Louis, Missouri
Lathrop & Gage, L.C.

- **General Counsel to Closely Held Businesses:** Clients concentrated in real estate and technology. As general counsel represented clients in negotiating complex commercial transactions, advised clients in general corporate matters including succession-planning, tax matters and litigation. Manage and supervise other counsel assisting in this representation. Counsel clients in public policy matters and the formation and management of private foundations, trusts, faith-based organizations and philanthropic enterprises. Lead litigation counsel in state and federal court (trial and appellate) and oversaw and managed litigation in state and federal court. Experienced in overseeing and managing significant state and federal litigation in Missouri, Michigan, Ohio, Florida, New Mexico, Wisconsin, Minnesota, Pennsylvania, Nevada, California, Georgia, Indiana, Iowa and other states.
- **Constitutional Law, Election Law and Government Relations:** General Counsel to various federal, state and local candidates, political parties and campaigns. State and national litigation counsel to candidates for state and federal office. Expertise in compliance with state and federal campaign finance regulation, matters concerning the conduct of an election and litigation concerning these issues. Advise businesses on compliance with state and federal campaign finance regulation and political activity. Representation of clients in matters concerning compliance with regulatory action by Federal Election Commission and the Missouri Ethics Commission. Village Attorney and Prosecutor, Town of Grantwood Village, Missouri (1995 – Present). Representation of clients in various municipal law matters and related litigation. Regional counsel to major national wireless-PCS telecommunications firm on matters of federal Telecommunications Act and state and local government litigation and regulation. Committee Member to Help America Vote Act committee appointed by Missouri Secretary of State Matt Blunt to advise on implementation of Help America Vote Act and related state legislation and rulemaking.
- **Real Estate, Banking and Property Rights:** Counsel to Federal and State financial institutions in complex real estate transactions and related financings involving governmental approvals, tax, environmental or other regulatory complexities. Successfully negotiated numerous multi-million dollar real estate transactions and represented clients in related real estate development, land use proceedings and litigation involving zoning and takings cases. Lead counsel to

Mark F. (Thor) Hearne, II – cont.

class of property owners in landmark federal Rails-to-Trails takings cases in U.S. Court of Claims.

- **Recent Professional Accomplishments:** Counsel to Republican National Committee, National Counsel to American Center for Voting Rights, National election counsel to Bush-Cheney, '04. Testified before U.S. House Administration Committee hearings into conduct of Ohio presidential election. Academic Advisor to Commission on Federal Election Reform (Baker-Carter Commission), General Counsel to Missouri Governor Matt Blunt and Missourians for Matt Blunt, Congressman Kenny Hulshof and Congressman Todd Akin. Advice campaigns on various matters of campaign finance (state and federal), litigation before Missouri Ethics Commission and campaign communication and political advertising. Counsel for successful intervenors in *Hawkins v. Blunt* federal litigation concerning Missouri provisional ballot procedures and the Help America Vote Act. Counsel for Bush-Cheney-2000 in *Bush-Cheney, 2000, Inc. v. Baker* 34 S.W.3d 410 (Mo. App, 2000), successful emergency appeal quashing Circuit Court order holding polls open beyond legal closing hour. Counsel for Plaintiffs in *Corbett v. Sullivan*, St. Louis County redistricting litigation (federal civil rights action) in U.S. District Court. Successful redistricting on behalf of Republican plaintiffs and NAACP intervenors. Counsel for Missouri Senator Bill Alter in successfully defending victory in 2005 Missouri Senate Special Election recount, Counsel to U.S. Congressmen Todd Akin in *Akin v. McNary*, successful defense of Congressman Akin's primary election recount. Counsel for Town of Grantwood Village in successful Fifth Amendment takings case in U.S. Court of Claims, *Grantwood Village v. United States*, 45 Fed Cl. 771 (Cl. Ct. 2000), (consolidated for partial summary judgment sub nomina *Glosemeyer v. United States*). Counsel for plaintiff in *Lowe v. American Standard*, federal jury trial in February 2005. Jury returned verdict for Plaintiff in full amount of claim in excess of \$500,000.

1988–1997 Partner - Principal Saint Louis, Missouri

Ziercher & Hocker, P.C.

- **General Counsel Closely Held Businesses** (*see description above*)
Additionally, significant real estate related environmental experience including federal Clean Water Act – Wetlands issues.
- **Constitutional Law and Government Relations:** Village Attorney, Town of Grantwood Village (1995 –Present).

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Mark F. (Thor) Hearne, II – cont.

Political Experience

- **2005:** National counsel to American Center for Voting Rights, Academic-Advisor to Commission on Federal Election Reform (Baker-Carter Commission), Counsel to Republican National Committee, counsel to Missouri Governor Matt Blunt and Missourians for Blunt. Campaign counsel to Congressman Kenny Hulshof, and Congressman Todd Akin. Testified before U.S. House Administration Committee in hearings into conduct of Ohio presidential election.
- **2004:** National election counsel to Bush-Cheney '04. Advised campaign on issues of national election law and litigation strategy and recruited and organized local counsel and oversaw election litigation in all battleground states. Delegate to Republican National Convention, Missouri State Republican Convention and Chairman of Missouri Republican Platform Committee and member of National Republican Platform Committee. General Counsel to Missouri Governor-elect Matt Blunt, Congressman Kenny Hulshof, and Congressman Todd Akin.
- **2003 - 2004:** Vice-President and Director of Election Operations for Republican National Lawyers Association, Chair of National Election Law School and Seminar, Orange County, California, August 2003 and Milwaukee, Wisconsin in July 2004. Advisor to California State Party counsel on Governor Arnold Schwarzenegger campaign and California recall election on Election Day operations and litigation.
- **2000 - 2002:** Republican National Lawyers Association, Vice-President-Director Election Operations, Counsel to Bush-Cheney – 2000, Inc., Coordinated Missouri Election Day Legal Team and counsel in *Bush-Cheney, 2000, Inc. v. Baker* (see above), Broward County, Florida Recount Team – Observer, Counsel to U.S. Congressman Todd Akin and Missouri Republican Party, Missouri State Republican Convention – Alternate – Clayton Township
- **1988:** Republican Candidate U.S. Congress, Missouri 3rd Cong. Dist – Successfully raised in excess of \$200,000 and received campaign fundraising support from former Secretary of Interior, Don Hodel, former U.S. Senator Bill Armstrong and former U.S. Congressman Tom Curtis, Chairman.
- **1986-1987 -** Reagan Administration – U.S. Department of Education, Office for Civil Rights, Attorney-Advisor-Law Clerk.
- **1984 -1980 -** Missouri Republican Convention, Alternate
- **1976 –** National & Missouri Republican Convention, Page

Professional Memberships

Admitted to practice before: U.S. Supreme Court, Michigan Supreme Court, Missouri Supreme Court, U.S. Court of Appeals - 8th Circuit, U.S. Court of International Trade, U.S. Court of Claims, U.S. Court of Appeals for the Federal Circuit, U.S. Court of Appeals for the Second Circuit. Member: Michigan Bar Association (tax, aviation and real estate law committees), Missouri Bar Association, Bar Association of Metropolitan St. Louis, American Bar Association; Named as one "Up and Coming Young Attorneys," St. Louis Business Journal. Named on of top ten attorneys in 2004 by Missouri Lawyers Weekly. Member, Republican National Lawyers Association.

Mark F. (Thor) Hearne, II – cont.

Education

Washington University, School of Law – St. Louis, Missouri – 1986, *Juris Doctorate*

Washington University – St. Louis, Missouri – 1983, B.A. Biology - Psychology

University of Tulsa – Tulsa Oklahoma – 1979 – 1980, Biology – Psychology

Interests

FAA Licensed Pilot, Sunshine Mission – former member Board of Directors (faith-based inner-city ministry) and current advisory board member, Member Philanthropy Roundtable, National Public Radio – Political Commentator St. Louis Affiliate KWMU, Republican National Lawyers Association, former vice-president and board member, Westminster Christian Academy – former member Board of Directors.

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SECRETARY OF STATE STATE OF INDIANA

TODD ROKITA
SECRETARY OF STATE

Indiana Secretary of State Todd Rokita Biographical Information

At the age of 35, Secretary Rokita is the second youngest Secretary of State in the country. First elected to the third highest office in state government in 2002, Secretary Rokita served for a year as the youngest Secretary of State in the nation.

As Indiana's chief election official, Secretary Rokita continues to work on reforming Indiana's election practices to ensure Indiana's elections are as fair, accurate and accessible as possible. By embracing technology and accountability, Secretary Rokita is leading the effort to make Indiana a 21st century election administration model. Rokita serves on the nine-member Executive Board of the Election Assistance Commission Standards Board, charged by federal law to address election reform issues. Secretary Rokita has testified about Indiana's voting reform efforts before the United States Congress.

Secretary Rokita also serves as Indiana's chief securities fraud investigator. Secretary Rokita's office has uncovered investor fraud scams and helped secure numerous felony convictions and thousands of dollars in restitution.

In his role as the head of Indiana's Business Services Division, Secretary Rokita has continued making Indiana a pioneer in e-government initiatives.

As Secretary of State, Rokita visits each of Indiana's 92 counties at least once each year. Rokita continues to serve as a precinct committeeman during each election, and was recently named as one of the "40 under 40" by the Indianapolis Business Journal.

A native of Munster, he holds a law degree from Indiana University School of Law-Indianapolis and a Bachelor of Arts degree from Wabash College. At Wabash, Rokita earned distinction as an Eli Lilly Fellow. After law school, Secretary Rokita worked as a practicing attorney.

Rokita began serving in the Secretary of State's office in 1997. As the Deputy Secretary of State and in other positions, Rokita helped implement user-friendly e-government services, provided tougher securities enforcement, and championed significant election reforms.

Secretary Rokita is active in the National Association of Secretaries of State, having served in 2004 as the Chair of the Voter Participation Committee and serving in 2005 as the Vice Chair of the organization's Securities Committee.

Secretary Rokita is a member of the Director's Circle of the Indiana Council for Economic Education, the state and local bar Associations, the Knights of Columbus, and the National Rifle Association. A commercial-rated pilot, Secretary Rokita volunteers his time by flying people in need of non-emergency medical care to hospitals and clinics throughout the Midwest for treatment.

Secretary Rokita lives in Indianapolis with his wife, Kathy and they are members of St. Thomas More Parish.

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Benjamin L. Ginsberg represents numerous political parties, political campaigns, candidates, members of Congress and state legislatures, Governors, corporations, trade associations, vendors, donors and individuals participating in the political process.

Education

- Georgetown University Law Center, J.D., 1982
- University of Pennsylvania, A.B., 1974

Bar Admissions

- District of Columbia

In both the 2004 and 2000 election cycles, Mr. Ginsberg served as national counsel to the Bush-Cheney presidential campaign; he played a central role in the 2000 Florida recount. He also represents the campaigns and leadership PACs of numerous members of the Senate and House, as well as the Republican National Committee, National Republican Senatorial Committee and National Republican Congressional Committee. He serves as counsel to the Republican Governors Association and has wide experience on the state legislative level from directing Republican redistricting efforts nationwide following the 1990 Census and being actively engaged in the 2001—2002 round of redistricting.

In addition to advising on election law issues, particularly those involving federal and state campaign finance laws, ethics rules, redistricting, communications law, and election recounts and contests, Mr. Ginsberg represents clients before Congress and state legislatures.

Before entering law school, he spent five years as a newspaper reporter on The Boston Globe, Philadelphia Evening Bulletin, The Berkshire (Mass.) Eagle, and The Riverside (Calif.) Press-Enterprise. He has been adjunct professor of law at the Georgetown University Law Center lecturing on law and the political process.

Representative Matters:

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- Mr. Ginsberg represents a variety of clients on Capitol Hill on a wide range of issues including appropriations, trade, broadcasting and health care.

ARTICLES

- Mr. Ginsberg appears frequently on television commenting on law and politics.

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EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				in the 2004 general election and Brandon E. Jones, who voted both in Raytown and Kansas City, Missouri in the 2004 general election. Both pled guilty.			
United States v. Raymond; United States v. McGee; United States v. Tobin; United States v. Hansen	New Hampshire	04-CR-00141; 04-CR-00146; 04-CR-00216; 04-CR-00054	December 15, 2005	Two informations were filed charging Allen Raymond, former president of a Virginia-based political consulting firm called GOP Marketplace, and Charles McGee, former executive director of the New	No	N/A	No

Deliberative Process
Privilege

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EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Hampshire State Republican Committee, with conspiracy to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. The charges stem from a scheme to block the phone lines used by two Manchester organizations to arrange drives to the polls during the 2002 general election. Both</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>pled guilty. James Tobin, former New England Regional Director of the Republican National Committee, was indicted on charges of conspiring to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. An information was filed charging Shaun Hansen, the principal of an</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Idaho telemarketing firm called MILO Enterprises which placed the harassing calls, with conspiracy and aiding and abetting telephone harassment, in violation of 18 U.S.C. section 371 and 2 and 47 U.S.C. section 223. The information against Hansen was dismissed upon motion of the government. A superseding indictment was returned</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>against Tobin charging conspiracy to impede the constitutional right to vote for federal candidates, in violation of 18 U.S.C. section 241 and conspiracy to make harassing telephone calls in violation of 47 U.S.C. section 223. Tobin was convicted of one count of conspiracy to commit telephone harassment and one count of aiding and abetting of telephone</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Workman	Western North Carolina	1:03-CR-00038	June 30, 2003	<p>harassment.</p> <p>A ten-count indictment was returned charging Joshua Workman, a Canadian citizen, with voting and related offenses in the 200 and 2002 primary and general elections in Avery County, North Carolina, in violation of 18 U.S.C. sections 611, 911, 1001, and 1015(f). Workman pled guilty to providing false information to election officials and to</p>	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				a federal agency.			
United States v. Shatley, et al.	Western North Carolina	5:03-CR-00035	May 14, 2004	A nine-count indictment was returned charging Wayne Shatley, Anita Moore, Valerie Moore, Carlos "Sunshine" Hood and Ross "Toogie" Banner with conspiracy and vote buying in the Caldwell County 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Anita and Valerie Moore pled guilty. Shatley, Hood,	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				and Banner were all convicted.			
United States v. Vargas	South Dakota	05-CR-50085	December 22, 2005	An indictment was filed against Rudolph Vargas, for voting more than once at Pine Ridge in the 2002 general election in violation of 42 U.S.C. section 1973i(e). Vargas pled guilty.	No	N/A	No
United States v. Wells; United States v. Mendez; United States v. Porter; United States v. Hrutkay; United States v. Porter; United States v.	Southern West Virginia	02-CR-00234; 2:04-CR-00101; 2:04-CR-00145; 2:04-CR-00149; 2:04-CR-	July 22, 2003; July 19, 2004; December 7, 2004; January 7, 2005; March 21, 2005;	Danny Ray Wells, Logan County, West Virginia, magistrate, was indicted and charged with violating 18 U.S.C. section	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Stapleton; United States v. Thomas E. Esposito; United States v. Nagy; United States v. Adkins; United States v. Harvey		00173; 2:05-CR-00002; 05-CR-00019; 05-CR-00148; 05-CR-00161	October 11, 2005; December 13, 2005	1962. Wells was found guilty. A felony indictment was filed against Logan County sheriff Johnny Mendez for conspiracy to defraud the United States in violation 18 U.S.C section 371. Mendez pled guilty. An information was filed charging former Logan County police chief Alvin Ray Porter, Jr., with making expenditures to influence voting in violation of 18 U.S.C. section			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>597. Porter pled guilty. Logan County attorney Mark Oliver Hrutkay was charged by information with mail fraud in violation of 18 U.S.C. section 1341. Hrutkay pled guilty. Earnest Stapleton, commander of the local VFW, was charged by information with mail fraud. He pled guilty. An information was filed charging Thomas E. Esposito, a former mayor of the City of</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Logan, with concealing the commission of a felony, in violation of 18 U.S.C. section 4. Esposito pled guilty. John Wesley Nagy, Logan County Court marshall, pled guilty to making false statements to a federal agent, a violation of 18 U.S.C. section 1001. An information charging Glen Dale Adkins, county clerk of Logan County, with accepting payment for voting, in violation of 18</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				U.S.C. section 1973i(c). Adkins pled guilty. Perry French Harvey, Jr., a retired UMW official, pled guilty to involvement in a conspiracy to buy votes.			
United States v. Adkins, et al.	Southern West Virginia	2:04-CR-00162	December 28 & 30, 2005	Jackie Adkins was indicted for vote buying in Lincoln County, West Virginia, in violation of 42 U.S.C. section 1973i(c). A superceding indictment added Wandell "Rocky" Adkins to the indictment and charged both defendants with	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>conspiracy to buy votes in violation of 18 U.S.C. section 371 and vote buying. A second superseding indictment was returned which added three additional defendants, Gegory Brent Stowers, Clifford Odell "Groundhog" Vance, and Toney "Zeke" Dingess, to the conspiracy and vote buying indictment. Charges were later dismissed against Jackie Adkins. A third superseding</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>indictment was returned adding two additional defendants, Jerry Allen Weaver and Ralph Dale Adkins. A superseding information was filed charging Vance with expenditures to influence voting, in violation of 18 U.S.C. section 597. Vance pled guilty. Superseding informations were filed against Stowers and Dingess for expenditures to influence voting, in</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				violation of 18 U.S.C. section 597. Both defendants pled guilty. Weaver also pled guilty. Superseding informations were filed against Ralph and Wandell Adkins for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty.			
United States v. Davis; United States v. Byas; United States v. Ocasio; United States v. Prude; United States v.	Eastern Wisconsin	2:05-MJ-00454; 2:05-MJ-00455; 2:05-CR-00161; 2:05-CR-	September 16, 2005; September 21, 2005; October 5, 2005; October 26,	Criminal complaints were issued against Brian L. Davis and Theresa J. Byas charging them	No	N/A	Need updated status on Gooden and the Anderson, Cox, Edwards, and Little cases.

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Sanders; United States v. Alicea; United States v. Brooks; United States v. Hamilton; United States v. Little; United States v. Swift; United States v. Anderson; United States v. Cox; United States v. Edwards; United States v. Gooden		00162; 2:05-CR-00163; 2:05-CR-00168; 2:05-CR-00170; 2:05-CR-00171; 2:05-CR-00172; 2:05-CR-00177; 2:05-CR-00207; 2:05-CR-00209; 2:05-CR-00211; 2:05-CR-00212	2005; October 31, 2005, November 10, 2005	with double voting, in violation of 42 U.S.C. section 1973i(e). Indictments were filed against convicted felons Milo R. Ocasio and Kimberly Prude, charging them with falsely certifying that they were eligible to vote, in violation of 42 U.S.C. section 1973gg-10(2)(B), and against Enrique C. Sanders, charging him with multiple voting, in			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				violation of 42 U.S.C. section 1973i(e). Five more indictments were later returned charging Cynthia C. Alicea with multiple voting in violation of 42 U.S.C. section 1973i(e) and convicted felons Deshawn B. Brooks, Alexander T. Hamilton, Derek G. Little, and Eric L. Swift with falsely certifying that they were eligible to vote			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>in violation of 42 U.S.C. section 1973gg-10(2)(B). Indictments were filed against Davis and Byas charging them with double voting. Four more indictments were returned charging convicted felons Ethel M. Anderson, Jiyto L. Cox, Correan F. Edwards, and Joseph J. Gooden with falsely certifying that they were eligible to vote.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Ocasio and Hamilton pled guilty. Prude was found guilty. A mistrial was declared in the Sanders case. Brooks was acquitted. Byas signed a plea agreement agreeing to plead to a misdemeanor 18 U.S.C. section 242 charge. Swift moved to change his plea. Davis was found incompetent to stand trial so the government dismissed the case. Gooden is a fugitive.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Alicea was acquitted. Four cases are pending --- Anderson, Cox, Edwards, and Little.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				the alternative, a preliminary injunction.	deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied.			
Am. Ass'n of People with Disabilities v. Hood	United States District Court for the Middle District of Florida	310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615	March 24, 2004	Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida	The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p>	<p>voters. The voters were unable to vote using the system without third--party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non--disabled voters.</p>			

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Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting system would</p>			

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Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the voters.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Troiano v. Lepore	United States District Court for the Southern District of Florida	2003 U.S. Dist. LEXIS 25850	November 3, 2003	Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary judgment.	The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow things down	No	N/A	No

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Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also failed to state</p>			

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Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have audio</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.			
Troiano v. Supervisor of Elections	United States Court of Appeals for the Eleventh Circuit	382 F.3d 1276; 2004 U.S. App. LEXIS 18497	September 1, 2004	Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in voting booths	The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The appellate court	No	N/A	No

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Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p>	<p>agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio components</p>			

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Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the accessible</p>			

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Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed.			
Am. Ass'n of People with Disabilities v. Smith	United States District Court for the Middle District of Florida	227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373	October 16, 2002	Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state and local	Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In order to vote,	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p>	<p>the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined with the federal</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the court could not</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs asserted that</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Jenkins v. Williamson-Butler	Court of Appeal of Louisiana, Fourth Circuit	883 So. 2d 537; 2004 La. App. LEXIS 2433	October 8, 2004	Petitioner, a candidate for a parish juvenile court judgeship, failed to qualify for a runoff election. She filed suit against defendant, the clerk of criminal court for the parish seeking a new election, based on grounds of substantial irregularities. The district court ruled in favor of the candidate	The trial court found that the voting machines were not put into service until two, four, and, in many instances, eight hours after the statutorily mandated starting hour which constituted serious irregularities so as to deprive voters from freely expressing their will. It was impossible to determine the number of voters that were affected by the	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				and ordered the holding of a restricted citywide election. The clerk appealed.	late start up or late arrival of voting machines, making it impossible to determine the result. The appellate court agreed that the irregularities were so serious that the trial court's voiding the election and calling a new election was the proper remedy. Judgment affirmed.			
Hester v. McKeithen	Court of Appeal of Louisiana, Fourth Circuit	882 So. 2d 1291; 2004 La. App. LEXIS 2429	October 8, 2004	Petitioner, school board candidate, filed suit against defendants, Louisiana	The candidate argued that the trial court erred in not setting aside the election, even after	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Secretary of State and district court clerk, contesting the school board election results. The trial court rendered judgment against the candidate, finding no basis for the election to be declared void. The candidate appealed.	acknowledging in its reasons for judgment numerous irregularities with the election process. The appellate court ruled that had the irregularities not occurred the outcome would have been exactly the same. Judgment affirmed.			
In re Election Contest of Democratic Primary Election	Supreme Court of Ohio	88 Ohio St. 3d 258; 2000 Ohio 325; 725 N.E.2d 271; 2000 Ohio	March 29, 2000	Appellant sought review of the judgment of the court of common	Appellant contended that an election irregularity occurred when the board failed	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Held May 4, 1999		LEXIS 607		pleas denying his election contest challenging an opponent's nomination for election irregularity.	to meet and act by majority vote on another candidate's withdrawal, instead permitting its employees to make decisions. Appellant had to prove by clear and convincing evidence that one or more election irregularities occurred and it affected enough votes to change or make uncertain the result of the election. Judgment affirmed. The appellant did			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					not establish election irregularity by the board's actions on the candidate's withdrawal, the board acted diligently and exercised its discretion in keeping the candidate's name on the ballot and notifying electors of his withdrawal.			
In re Election Contest As to Watertown Special Referendum Election	Supreme Court of South Dakota	2001 SD 62; 628 N.W.2d 336; 2001 S.D. LEXIS 66	May 23, 2001	Appellant sought review of the judgment of the circuit court declaring a local election valid and	The burden was on appellants to show not only that voting irregularities occurred, but also show that those irregularities	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				declining to order a new election.	were so egregious that the will of the voters was suppressed. Appellants did not meet their burden, as mere inconvenience or delay in voting was not enough to overturn the election. Judgment affirmed.			
Jones v. Jessup	Supreme Court of Georgia	279 Ga. 531; 615 S.E.2d 529; 2005 Ga. LEXIS 447	June 30, 2005	Defendant incumbent appealed a judgment by the trial court that invalidated an election for the position of sheriff and	After the candidate lost the sheriff's election to the incumbent, he contested the election, asserting that there were sufficient irregularities to	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>ordered that a new election be held based on plaintiff candidate's election contest.</p>	<p>place in doubt the election results. The state supreme court held that the candidate failed to prove substantial error in the votes cast by the witnesses adduced at the hearing who voted at the election. Although the candidate's evidence reflected the presence of some irregularities, not every irregularity invalidated the vote. The absentee ballots</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were only to be rejected where the electors failed to furnish required information. Because the ballots cast by the witnesses substantially complied with all of the essential requirements of the form, the trial court erred by finding that they should not have been considered. The candidate failed to establish substantial error in the votes. Judgment reversed.</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Toliver v. Thompson	Supreme Court of Oklahoma	2000 OK 98; 17 P.3d 464; 2000 Okla. LEXIS 101	December 21, 2000	Petitioner challenged an order of the district court denying his motion to compel a recount of votes from an election.	The court held a recount of votes cast in an election could occur when the ballots had been preserved in the manner prescribed by statute. The trial court noted when the ballots had not been preserved in such a manner, no recount would be conducted. The court further noted a petition alleging irregularities in an election could be based upon an allegation that	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>it was impossible to determine with mathematical certainty which candidate was entitled to be issued a certificate of election. The Oklahoma supreme court held petitioner failed to show that the actual votes counted in the election were tainted with irregularity, and similarly failed to show a statutory right to a new election based upon a failure to preserve the</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots. Judgment affirmed.			
Adkins v. Huckabay	Supreme Court of Louisiana	755 So. 2d 206; 2000 La. LEXIS 504	February 25, 2000	Plaintiff candidate challenged judgment of court of appeal, second circuit, which reversed the lower court's judgment and declared defendant candidate winner of a runoff election for sheriff.	The issue presented for the appellate court's determination was whether the absentee voting irregularities plaintiff candidate complained of rendered it impossible to determine the outcome of the election for sheriff. The Louisiana supreme court concluded that the lower court had applied the correct	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>standard, substantial compliance, to the election irregularities, but had erred in its application by concluding that the contested absentee ballots substantially complied with the statutory requirements. The supreme court found that in applying substantial compliance to five of the ballot irregularities, the trial court correctly vacated the general election</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					and set it aside because those absentee ballots should have been disqualified. Because of the constitutional guarantee to secrecy of the ballot and the fact that the margin of victory in the runoff election was three votes, it was impossible to determine the result of the runoff election. Thus, the supreme court ordered a new general election. Judgment of the			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court of appeals reversed.			
In re Gray--Sadler	Supreme Court of New Jersey	164 N.J. 468; 753 A.2d 1101; 2000 N.J. LEXIS 668	June 30, 2000	Appellants, write--in candidates for the offices of mayor and borough council, appealed the judgment of the superior court, appellate division reversing the trial court's decision to set aside the election results for those offices due to irregularities related to the write--in	The New Jersey supreme court held that the votes that were rejected by election officials did not result from the voters' own errors, but from the election officials' noncompliance with statutory requirements. In other words, the voters were provided with patently inadequate instructions and defective voting machines. Moreover,	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				instructions and defective voting machines.	appellants met the statutory requirement for successfully contesting the election results by showing that enough qualified voters were denied the right to cast write--in votes as to affect the outcome of the election. Judgment reversed and the state trial court's decision reinstated.			
Goodwin v. St. Thomas-St. John Bd. of Elections	Territorial Court of the Virgin Islands	43 V.I. 89; 2000 V.I. LEXIS 15	December 13, 2000	Plaintiff political candidate alleged that certain general election	Plaintiff alleged that defendants counted unlawful absentee ballots that lacked postmarks,	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the</p>	<p>were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The territorial court held that plaintiff was not entitled to relief since he failed to</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				election results tabulated without such ballots.	establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were</p>			

012704

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					proper.			
Johnson v. Lopez-- Torres	Supreme Court of New York, Appellate Division, Second Department	2005 NY Slip Op 7825; 2005 N.Y. App. Div. LEXIS 11276	October 21, 2005	In a proceeding for a re-- canvass of certain affidavit ballots cast in the Democratic Party primary election for the public office of surrogate, the supreme court denied appellant candidate's petition requesting the same and declared appellee opponent the winner of	Finding that the candidate had waived her right to challenge the affidavit ballots and had not sufficiently established her claim of irregularities to warrant a hearing, the trial court denied her petition and declared the opponent the winner of the primary. However, on appeal, the appellate division held that no waiver occurred.			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				that election.	Moreover, because hundreds of apparently otherwise eligible voters failed to fill in their party enrollment and/or prior address, it could be reasonably inferred that these voters were misled thereby into omitting the required information. Finally, the candidate failed to make a sufficient showing of voting irregularities in			

012706

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the machine vote to require a hearing on that issue. Judgment reversed.			
Ex parte Avery	Supreme Court of Alabama	843 So. 2d 137; 2002 Ala. LEXIS 239	August 23, 2002	Petitioner probate judge moved for a writ of mandamus directing a circuit judge to vacate his order requiring the probate judge to transfer all election materials to the circuit clerk and holding him in contempt for failing to do so. The	The issuance of a writ of mandamus was appropriate. The district attorney had a right to the election materials because he was conducting a criminal investigation of the last election. Furthermore, the circuit judge had no jurisdiction or authority to issue an order	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				probate judge also requested that said material be turned over to the district attorney, pursuant to an outstanding subpoena.	directing that the election materials be given to the clerk. The district attorney received several claims of irregularities in the election, some of which could constitute voter fraud. Petition granted and writ issued.			
Harpole v. Kemper County Democratic Exec. Comm.	Supreme Court of Mississippi	908 So. 2d 129; 2005 Miss. LEXIS 463	August 4, 2005	After his loss in a primary election for the office of sheriff, appellant candidate sued appellees, a political party's executive	The candidate alleged the sheriff had his deputies transport prisoners to the polls, felons voted, and the absentee voter law was breached. The committee	No	N/A	No

012708

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>committee and the incumbent sheriff, alleging irregularities in the election. The circuit court dismissed the candidate's petition for judicial review with prejudice. He appealed.</p>	<p>agreed with the last contention and threw out the absentee ballots (seven percent of votes cast); after a recount, the sheriff still prevailed. The trial court dismissed the case due to alleged defects in the petition; in the alternative, it held that the candidate failed to sufficiently allege violations and irregularities in the election. The supreme court held that the petition was</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not defective. Disqualification of seven percent of the total votes was not substantial enough so as to cause the will of the voters to be impossible to discern and to warrant a special election, and there were not enough illegal votes cast for the sheriff to change the outcome. A blanket allegation implying that the sheriff had deputies transport prisoners to the</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					polls was not supported by credible evidence. Judgment affirmed.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Madden	United States Court of Appeals for the Sixth Circuit	403 F.3d 347; 2005 U.S. App. LEXIS 5326	April 4, 2005	Defendant appealed his conviction for violating the federal vote--buying statute. He also appealed the sentence imposed by the United States District Court for the Eastern District of Kentucky at Pikeville. The district court applied the U.S. Sentencing Guidelines Manual (Guidelines) § 3B1.1(c) supervisory--role	Defendant paid three people to vote for a local candidate in a primary election. The same ballot contained candidates for the U.S. Senate. While he waived his right to appeal his conviction, he nonetheless asserted two arguments in seeking to avoid the waiver. He first posited that the vote buying statute prohibited only buying votes for federal candidates----a prohibition not	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>enhancement and increased defendant's base offense level by two levels.</p>	<p>violated by his conduct. In the alternative, he stated if the statute did criminalize buying votes for state or local candidates, then the statute was unconstitutional. Both arguments failed. Defendant argued that applying the supervisory--role enhancement constituted impermissible double counting because the supervision he exercised was no more than necessary to</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>establish a vote-buying offense. That argument also failed. Defendant next argued that the district court erred by applying the vulnerable-victim enhancement under U.S. Sentencing Guidelines Manual § 3A1.1(b)(1). He acknowledged that he knew the mentally ill people who sold their votes were vulnerable, but maintained they were not victims because they received \$50 for</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>their votes. The vote sellers were not victims for Guidelines purposes. The district court erred. Defendant's appeal of conviction was dismissed. Defendant's sentence was vacated, and the case was remanded for resentencing.</p>			
United States v. Slone	United States Court of Appeals for the Sixth Circuit	411 F.3d 643; 2005 U.S. App. LEXIS 10137	June 3, 2005	Defendant pled guilty to vote buying in a federal election. The United States District Court for the Eastern District of	Defendant offered to pay voters for voting in a primary election. Defendant claimed that the vote buying statute did not apply to him	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Kentucky sentenced defendant to 10 months in custody and recommended that the sentence be served at an institution that could accommodate defendant's medical needs. Defendant appealed his conviction and sentence.</p>	<p>because his conduct related solely to a candidate for a county office. Alternatively, defendant asserted that the statute was unconstitutional because it exceeded Congress' enumerated powers. Finally, defendant argued that the district court erred when it failed to consider his medical condition as a ground for a downward departure at sentencing. The</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>appellate court found that the vote buying statute applied to all elections in which a federal candidate was on the ballot, and the government need not prove that defendant intended to affect the federal component of the election by his corrupt practices. The facts admitted by defendant at his guilty-plea hearing established all of the essential elements of an</p>			

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					<p>offense. The Elections Clause and the Necessary and Proper Clause combined to provide Congress with the power to regulate mixed federal and state elections even when federal candidates were running unopposed. There was no error in the district court's decision on departure under U.S. Sentencing Guidelines Manual § 5H1.4. Defendant's conviction and</p>			

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Vote Buying Cases

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					sentence were affirmed.			
United States v. Smith	United States Court of Appeals for the Sixth Circuit	139 Fed. Appx. 681; 2005 U.S. App. LEXIS 14855	July 18, 2005	Defendants were convicted of vote buying and conspiracy to buy votes. The United States District Court for the Eastern District of Kentucky entered judgment on the jury verdict and sentenced defendants. Defendants appealed.	One of the defendants was a state representative who decided to run for an elected position. Defendants worked together and with others to buy votes. During defendants' trial, in addition to testimony regarding vote buying, evidence was introduced that two witnesses had been threatened. The appellate court found that defendants	No	N/A	No

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					<p>failed to show evidence of prejudice with regard to denial of the motion for severance. Threat evidence was not excludable under Fed. R. Evid. 404(b) because it was admissible to show consciousness of guilt without any inference as to the character of defendants. Admission of witnesses' testimony was proper because each witness testified that he or she was approached by a</p>			

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					<p>member of the conspiracy and offered money for his or her vote. The remaining incarcerated defendant's challenges to his sentence had merit because individuals who sold their votes were not "victims" for the purposes of U.S. Sentencing Guidelines Manual § 3A1.1. Furthermore, application of U.S. Sentencing Guidelines Manual § 3B1.1(b) violated</p>			

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					defendant's Sixth Amendment rights because it was based on facts that defendant did not admit or proved to the jury beyond a reasonable doubt. Defendants' convictions were affirmed. The remaining incarcerated defendant's sentence was vacated and his case was remanded for resentencing in accordance with Booker.			
Nugent v. Phelps	Court of Appeal of	816 So. 2d 349; 2002	April 23, 2002	Plaintiff incumbent	The incumbent argued that: (1)	No	N/A	No

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Louisiana, Second Circuit	La. App. LEXIS 1138		police chief sued defendant challenger, the winning candidate, to have the election nullified and a new election held based on numerous irregularities and unlawful activities by the challenger and his supporters. The challenger won the election by a margin of four votes. At the end of the incumbent's	the number of persons who were bribed for their votes by the challenger's worker was sufficient to change the outcome of the election; (2) the trial judge failed to inform potential witnesses that they could be given immunity from prosecution for bribery of voters if they came forth with truthful testimony; (3) the votes of three of his ardent supporters			

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>case, the district court for the dismissed his suit. The incumbent appealed.</p>	<p>should have been counted because they were incarcerated for the sole purpose of keeping them from campaigning and voting; and (4) the district attorney, a strong supporter of the challenger, abused his power when he subpoenaed the incumbent to appear before the grand jury a week preceding the election. The appellate court held no more than two votes would be</p>			

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>subtracted, a difference that would be insufficient to change the election result or make it impossible to determine. The appellate court found the trial judge read the immunity portion of the statute to the potential witnesses. The appellate court found the arrests of the three supporters were the result of grand jury indictments, and there was no manifest error in holding that the</p>			

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					incumbent failed to prove a scheme by the district attorney. The judgment of the trial court was affirmed.			
Eason v. State	Court of Appeals of Mississippi	2005 Miss. App. LEXIS 1017	December 13, 2005	Defendant appealed a decision of circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud.	Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant would drive the voters to the clerk's office	No	N/A	No

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the argument arose because, while the prosecutor's closing</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial.</p> <p>Furthermore, the trial judge did not abuse his discretion when he did not allow defendant</p>			

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					to ask the individual whether she wanted to see defendant go to prison because the individual's potential bias was shown by the individual's testimony that she expected the prosecution to recommend her sentence. The court affirmed defendant's conviction.			
United States v. Turner	United States District Court for the Eastern District of Kentucky	2005 U.S. Dist. LEXIS 31709	November 30, 2005	Defendants were charged with committing mail fraud and conspiracy to commit mail fraud and	Defendants argued that recusal was mandated by 28 U.S.C.S. § 455(a) and (b)(1). The court found no merit in defendants'	No	N/A	No

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>vote--buying. First defendant filed a motion to recuse. Second defendant's motion to join the motion to recuse was granted. First defendant moved to compel the Government to grant testimonial use immunity to second defendant and moved to sever defendants.</p>	<p>arguments. The fact that the judge's husband was the commissioner of the Kentucky Department of Environmental Protection, a position to which he was appointed by the Republican Governor, was not relevant. The judge's husband was neither a party nor a witness. The court further concluded that no reasonable person could find that the judge's spouse had any direct</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>interest in the instant action. As for issue of money donated by the judge's husband to Republican opponents of first defendant, the court could not discern any reason why such facts warranted recusal. First defendant asserted that second defendant should have been granted use immunity based on a belief that second defendant would testify that first defendant did</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not agree to, possess knowledge of, engage in, or otherwise participate in any of the illegal activity alleged in the indictment. The court found the summary of expected testimony to be too general to grant immunity. In addition, it was far from clear whether the court had the power to grant testimonial use immunity to second defendant. Defendants' motion to recuse</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was denied. First defendant's motions to compel and to sever were denied.</p>			

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Ways v. Shively	Supreme Court of Nebraska	264 Neb. 250; 646 N.W.2d 621; 2002 Neb. LEXIS 158	July 5, 2002	Appellant felon filed a writ of mandamus, which sought to compel appellee Election Commissioner of Lancaster County, Nebraska, to permit him to register to vote. The District Court for Lancaster County denied the felon's petition for writ of mandamus and dismissed the petition. The felon appealed.	The felon was discharged from the Nebraska State Penitentiary in June 1998 after completing his sentences for the crimes of pandering, carrying a concealed weapon and attempting to possess a controlled substance. The commissioner asserted that as a result of the felon's conviction, the sentence for which had neither been reversed nor annulled, he had lost his right to vote. The commissioner contended that the	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>only method by which the felon's right to vote could be restored was through a warrant of discharge issued by the Nebraska Board of Pardons-- -a warrant of discharge had not been issued. The supreme court ruled that the certificate of discharge issued to the felon upon his release did not restore his right to vote. The supreme court ruled that as a matter of law, the specific right to vote was not restored to the felon upon his discharge from incarceration at the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					completion of his sentences. The judgment was affirmed.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court declared the disenfranchisement	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the authority under</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					authority.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw. LEXIS 534	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights.	Petitioner convicted felons were presently or had formerly been confined in state prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.			
NAACP Philadelphia	United States District Court	2000 U.S.	August 14, 2000	Plaintiffs moved for a preliminary	Plaintiffs, ex--felon,	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Branch v. Ridge	for the Eastern District of Pennsylvania	Dist. LEXIS 11520		injunction, which the parties agreed to consolidate with the merits determination for a permanent injunction, in plaintiffs' civil rights suit contending that the Pennsylvania Voter Registration Act, offended the Equal Protection Clause of U.S. Const. amend. XIV.	unincorporated association, and others, filed a civil rights suit against defendant state and local officials, contending that the Pennsylvania Voter Registration Act, violated the Equal Protection Clause by prohibiting some ex--felons from voting during the five year period following their release from prison, while permitting other ex--felons to vote. Plaintiffs conceded that one plaintiff lacked standing, and the court assumed the remaining			

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					<p>plaintiffs had standing. The court found that all that all three of the special circumstances necessary to invoke the Pullman doctrine were present in the case, but found that abstention was not appropriate under the circumstances since it did not agree with plaintiffs' contention that the time constraints caused by the upcoming election meant that the option of pursuing their claims in state court did not offer plaintiffs an adequate remedy.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Plaintiff's motion for permanent injunction denied; the court abstained from deciding merits of plaintiff's claims under the Pullman doctrine because all three of the special circumstances necessary to invoke the doctrine were present in the case; all further proceedings stayed until further order.			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations of the Voting Rights Act. The parties filed cross-motions for	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				summary judgment.	right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of minorities; as a result, minorities were under--represented in			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new constitutional problem, allowing disenfranchisement only of white</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.			
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence</p>			

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					<p>that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re--enactment of that provision. Although it appeared that there was a disparate impact on minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.			
King v. City of Boston	United States District Court for the District of Massachusetts	2004 U.S. Dist. LEXIS 8421	May 13, 2004	Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned.	The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional rights. The court found the statute at issue to be constitutional and denied the inmate's</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					motion for summary judgment.			
Hayden v. Pataki	United States District Court for the Southern District of New York	2004 U.S. Dist. LEXIS 10863	June 14, 2004	In a 42 U.S.C.S. § 1983 action filed by plaintiffs, black and latino convicted felons, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) were unconstitutional, defendants, New York's governor and the chairperson of the board of elections, moved for judgment on the pleadings under Fed. R. Civ. P. 12(c).	The felons sued defendants, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) unlawfully denied suffrage to incarcerated and paroled felons on account of their race. The court granted defendants' motion for judgment on the pleadings on the felons' claims under U.S. Const. amend. XIV, XV because their factual allegations were insufficient from which to draw an inference	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>that the challenged provisions or their predecessors were enacted with discriminatory intent, and because denying suffrage to those who received more severe punishments, such as a term of incarceration, and not to those who received a lesser punishment, such as probation, was not arbitrary. The felons' claims under 42 U.S.C.S. § 1973 were dismissed because § 1973 could not be used to challenge the legality of N.Y. Elec. Law § 5-106. Defendants'</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>motion was granted as to the felons' claims under 42 U.S.C.S. § 1971 because § 1971 did not provide for a private right of action, and because the felons were not "otherwise qualified to vote." The court also granted defendants' motion on the felons' U.S. Const. amend. I claim because it did not guarantee a felon the right to vote. Defendants' motion for judgment on the pleadings was granted in the felons' § 1983</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					action.			
Farrakhan v. Washington	United States Court for Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised. The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					claim.			
In re Phillips	Supreme Court of Virginia	265 Va. 81; 574 S.E.2d 270; 2003 Va. LEXIS 10	January 10, 2003	The circuit court, entered a judgment in which it declined to consider petitioner former felon's petition for approval of her request to seek restoration of her eligibility to register to vote. The former felon appealed.	More than five years earlier, the former felon was convicted of the felony of making a false written statement incident to a firearm purchase. She then petitioned the trial court asking it to approve her request to seek restoration of her eligibility to register to vote. Her request was based on Va. Code Ann. § 53.1--231.2, allowing persons convicted of non--violent felonies to petition a trial court for approval of a request to seek	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>restoration of voting rights. The trial court declined. It found that Va. Code Ann. § 53.1--231.2 violated constitutional separation of powers principles since it gave the trial court powers belonging to the governor. It also found that even if the statute was constitutional, it was fundamentally flawed for not providing notice to respondent Commonwealth regarding a petition. After the petition was denied, the state supreme court</p>			

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					<p>found the separation of powers principles were not violated since the statute only allowed the trial court to determine if an applicant met the requirements to have voting eligibility restored. It also found the statute was not fundamentally flawed since the Commonwealth was not an interested party entitled to notice. OUTCOME: The judgment was reversed and the case was remanded for further proceedings.</p>			
Howard v.	United States	2000	February	Appellant	Appellant was	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Gilmore	Court of Appeals for the Fourth Circuit	U.S. App. LEXIS 2680	23, 2000	challenged the United States District Court for the Eastern District of Virginia's order summarily dismissing his complaint, related to his inability to vote as a convicted felon, for failure to state a claim upon which relief can be granted.	disenfranchised by the Commonwealth of Virginia following his felony conviction. He challenged that decision by suing the Commonwealth under the U.S. Const. amends. I, XIV, XV, XIX, and XXIV, and under the Voting Rights Act of 1965. The lower court summarily dismissed his complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Appellant challenged. The court found U.S. Const. amend. I			

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Felon Voting Cases

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					<p>created no private right of action for seeking reinstatement of previously canceled voting rights, U.S. Const. amends. XIV, XV, XIX, and the VRA required either gender or race discrimination, neither of which appellant asserted, and the U.S. Const. amend. XXIV, while prohibiting the imposition of poll taxes, did not prohibit the imposition of a \$10 fee for reinstatement of appellant's civil rights, including the right to vote. Consequently,</p>			

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>appellant failed to state a claim. The court affirmed, finding that none of the constitutional provisions appellant relied on were properly pled because appellant failed to assert that either his race or gender were involved in the decisions to deny him the vote. Conditioning reestablishment of his civil rights on a \$10 fee was not unconstitutional.</p>			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	353 F.3d 1287; 2003 U.S. App. LEXIS	December 19, 2003	Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a	The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		25859		<p>decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.</p>	<p>constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court found that the claim under the Voting Rights Act, also needed to be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was</p>			

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>behind the Florida disenfranchisement provisions, in violation of the Voting Rights Act. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for violation of federal voting laws and remanded the matter to the district court for further proceedings.</p>			
State v. Black	Court of	2002	September	In 1997, petitioner	The appellate	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Appeals of Tennessee	Tenn. App. LEXIS 696	26, 2002	was convicted of forgery and sentenced to the penitentiary for two years, but was immediately placed on probation. He subsequently petitioned the circuit court for restoration of citizenship. The trial court restored his citizenship rights. The State appealed. The appellate court issued its opinion, but granted the State's motions to supplement the record and to rehear its decision.	court's original opinion found that petitioner had not lost his right to hold public office because Tennessee law removed that right only from convicted felons who were "sentenced to the penitentiary." The trial court's amended judgment made it clear that petitioner was in fact sentenced to the penitentiary. Based upon this correction to the record, the appellate court found that petitioner's sentence to the penitentiary resulted in the			

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					forfeiture of his right to seek and hold public office by operation of Tenn. Code Ann. § 40-20--114. However, the appellate court concluded that this new information did not requires a different outcome on the merits of the issue of restoration of his citizenship rights, including the right to seek and hold public office. The appellate court adhered to its conclusion that the statutory presumption in favor of the restoration was not overcome by a			

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					showing, by a preponderance of the evidence, of good cause to deny the petition for restoration of citizenship rights. The appellate court affirmed the restoration of petitioner's right to vote and reversed the denial of his right to seek and hold public office. His full rights of citizenship were restored.			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	405 F.3d 1214; 2005 U.S. App. LEXIS 5945	April 12, 2005	Plaintiff individuals sued defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const.	The individuals argued that the racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>art. VI, § 4 (1968), violated the Equal Protection Clause and 42 U.S.C.S. § 1973. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.</p>	<p>operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not</p>			

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that 42 U.S.C.S. § 1973 applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment permitted the state to maintain. In addition, the legislative history indicated that Congress never</p>			

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.			

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Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Hileman v. McGinness	Appellate Court of Illinois, Fifth District	316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845	October 25, 2000	Appellant challenged the circuit court's declaration that that the result of a primary election for county circuit clerk was void.	In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been	No	N/A	No

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Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					segregated, apportionment was the appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a			

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Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					determination as to whether fraud was evident in the electoral process. Judgment reversed and remanded.			
Eason v. State	Court of Appeals of Mississippi	2005 Miss. App. LEXIS 1017	December 13, 2005	Defendant appealed a decision of the circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud.	Defendant was helping with his cousin's campaign in a run-off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>would drive the voters to the clerk's office where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the</p>			

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Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>argument arose because, while the prosecutor's closing argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Judgment affirmed.</p>			
Wilson v.	Court of	2000 Va.	May 2,	Defendant	At trial, the	No	N/A	No

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Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Commonwealth	Appeals of Virginia	App. LEXIS 322	2000	appealed the judgment of the circuit court which convicted her of election fraud.	Commonwealth introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from			

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Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the Department of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. Judgment affirmed.			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala. LEXIS 214	December 9, 2005	The circuit court overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of	The voters and the incumbent all challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that	No	N/A	No

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				its judgment pending resolution of the appeal.	at least 30 absentee voters who voted for the incumbent provided with their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply</p>			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					with the absentee--voting requirements. The judgment declaring the incumbent's opponent the winner was affirmed. The judgment counting the challenged votes in the final tally of votes was reversed, and said votes were subtracted from the incumbents total, and the stay was vacated. All other arguments were rendered moot as a result.			
ACLU of Minn. v.	United States	2004 U.S. Dist.	October 29, 2004	Plaintiffs, voters and	Plaintiffs argued that Minn. Stat.	No	N/A	No

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Kiffmeyer	District Court for the District of Minnesota	LEXIS 22996		associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration.	§ 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal Protection Clause of the Fourteenth</p>			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on their claims that Minn. R. 8200.5100,</p>			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to	The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional	No	N/A	No

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				dismiss.	ballot, a first-time voter could identify himself by providing his driver's license number or the last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, even if the cost, in terms of uncounted ballots, was regrettable. The court granted the Secretary's motion to dismiss.			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
New York v. County of Del.	United States District Court for the Northern District of New York	82 F. Supp. 2d 12; 2000 U.S. Dist. LEXIS 1398	February 8, 2000	Plaintiffs brought a claim in the district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued.	In their complaint plaintiffs alleged that defendants violated the ADA by making the voting locations inaccessible to disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct parties, because	No	N/A	No

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>pursuant to New York election law defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, due to the alleged</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>facts, the court found plaintiffs would likely succeed on the merits. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction and granted plaintiffs' motion for leave to amend their complaint.</p>			
New York v. County of Schoharie	United States District	82 F. Supp. 2d 19; 2000	February 8, 2000	Plaintiffs brought a claim in the	In their complaint, plaintiffs	No	N/A	No

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Northern District of New York	U.S. Dist. LEXIS 1399		district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and a motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued.	alleged defendants violated the ADA by allowing voting locations to be inaccessible for disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct party, because pursuant to New York election law,			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, the court found that plaintiffs would likely succeed on the</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>merits of their case. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction because plaintiffs showed irreparable harm and proved likely success on the merits and granted plaintiff's motion for leave to amend the complaint.</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Westchester Disabled on the Move, Inc. v. County of Westchester	United States District Court for the Southern District of New York	346 F. Supp. 2d 473; 2004 U.S. Dist. LEXIS 24203	October 22, 2004	Plaintiffs sued defendant county, county board of elections, and election officials pursuant to 42 U.S.C.S. §§ 12131--12134, N.Y. Exec. Law § 296, and N.Y. Elec. Law § 4--1--4. Plaintiffs moved for a preliminary injunction, requesting (among other things) that the court order defendants to modify the polling places in the county so that they	The inability to vote at assigned locations on election day constituted irreparable harm. However, plaintiffs could not show a likelihood of success on the merits because the currently named defendants could not provide complete relief sought by plaintiffs. Although the county board of elections was empowered to	No	N/A	No

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>were accessible to disabled voters on election day. Defendants moved to dismiss.</p>	<p>select an alternative polling place should it determine that a polling place designated by a municipality was "unsuitable or unsafe," it was entirely unclear that its power to merely designate suitable polling places would be adequate to ensure that all polling places used in the upcoming election actually conformed</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>with the Americans with Disabilities Act. Substantial changes and modifications to existing facilities would have to be made, and such changes would be difficult, if not impossible, to make without the cooperation of municipalities. Further, the court could order defendants to approve voting machines that conformed to</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the ADA were they to be purchased and submitted for county approval, but the court could not order them to purchase them for the voting districts in the county. A judgment issued in the absence of the municipalities would be inadequate. Plaintiffs' motion for preliminary injunction was denied, and defendants' motion to dismiss was granted.</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Nat'l Org. on Disability v. Tartaglione	United States District Court for the Eastern District of Pennsylvania	2001 U.S. Dist. LEXIS 16731	October 11, 2001	Plaintiffs, disabled voters and special interest organizations, sued defendants, city commissioners, under the Americans with Disabilities Act and § 504 of the Rehabilitation Act of 1973, and regulations under both statutes, regarding election practices. The commissioners moved to dismiss for failure (1) to	The voters were visually impaired or wheelchair bound. They challenged the commissioners' failure to provide talking voting machines and wheelchair accessible voting places. They claimed discrimination in the process of voting because they were not afforded the same opportunity to participate in the voting process as non-disabled	No	N/A	Yes-see if the case was refiled

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				state a cause of action and (2) to join an indispensable party.	voters, and assisted voting and voting by alternative ballot were substantially different from, more burdensome than, and more intrusive than the voting process utilized by non--disabled voters. The court found that the complaint stated causes of actions under the ADA, the Rehabilitation Act, and 28 C.F.R. §§ 35.151 and			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>35.130. The court found that the voters and organizations had standing to raise their claims. The organizations had standing through the voters' standing or because they used significant resources challenging the commissioners' conduct. The plaintiffs failed to join the state official who would need to approve any talking voting machine as a</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>party. As the court could not afford complete relief to the visually impaired voters in that party's absence, it granted the motion to dismiss under Fed. R. Civ. P. 12(b)(7) without prejudice. The court granted the commissioners' motion to dismiss in part, and denied it in part. The court granted the motion to dismiss the claims of the</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					visually impaired voters for failure to join an indispensable party, without prejudice, and with leave to amend the complaint.			
TENNESSEE, Petitioner v. GEORGE LANE et al.	United States Supreme Court	541 U.S. 509; 124 S. Ct. 1978; 158 L. Ed. 2d 820; 2004 U.S. LEXIS 3386	May 17, 2004	Respondent paraplegics sued petitioner State of Tennessee, alleging that the State failed to provide reasonable access to court facilities in violation of Title II of the Americans with Disabilities Act	The state contended that the abrogation of state sovereign immunity in Title II of the ADA exceeded congressional authority under U.S. Const. amend XIV, § 5, to enforce substantive constitutional guarantees.	No	N/A	No

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				of 1990. Upon the grant of a writ of certiorari, the State appealed the judgment of the United States Court of Appeals for the Sixth Circuit which denied the State's claim of sovereign immunity.	The United States Supreme Court held, however, that Title II, as it applied to the class of cases implicating the fundamental right of access to the courts, constituted a valid exercise of Congress's authority. Title II was responsive to evidence of pervasive unequal treatment of persons with disabilities in the administration of state			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>services and programs, and such disability discrimination was thus an appropriate subject for prophylactic legislation. Regardless of whether the State could be subjected to liability for failing to provide access to other facilities or services, the fundamental right of access to the courts warranted the limited requirement that the State reasonably</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>accommodate disabled persons to provide such access. Title II was thus a reasonable prophylactic measure, reasonably targeted to a legitimate end. The judgment denying the State's claim of sovereign immunity was affirmed.</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19--3509.21 violated the National Voter Registration Act, and the Equal Protection Clause of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio	The voters asserted that § 3503.02---- which stated that the place where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>granted summary judgment in favor of defendants. The voters appealed.</p>	<p>not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann. § 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Wilson v. Commonwealth	Court of Appeals of Virginia	2000 Va. App. LEXIS 322	May 2, 2000 .	Defendant appealed the judgment of the circuit court which convicted her of election fraud.	On appeal, defendant argued that the evidence was insufficient to support her conviction because it failed to prove that she made a willfully false statement on her voter registration form and, even if the evidence did prove that she made such a statement, it did not prove that the voter registration form was the form required by Title 24.2. At trial, the Commonwealth	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from the Department			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed by Title 24.2 in order for her to be a candidate for office in the primary in question. Judgment of conviction affirmed. Evidence, including</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					records showing electricity and water usage, records from the Department of Motor Vehicles and school records, was sufficient to support jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question.			
ACLU of Minn. v.	United States	2004 U.S. Dist.	October 29, 2004	Plaintiffs, voters and	Plaintiffs argued that	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Kiffmeyer	District Court for the District of Minnesota	LEXIS 22996		associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration.	Minn. Stat. § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>address of the individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Protection Clause of the Fourteenth Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					their claims that Minn. R. 8200.5100, violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.			
Kalsson v. United States FEC	United States District Court for the Southern District of New York	356 F. Supp. 2d 371; 2005 U.S. Dist. LEXIS 2279	February 16, 2005	Defendant Federal Election Commission filed a motion to dismiss for lack of subject matter jurisdiction plaintiff individual's action, which sought a declaration that	The individual claimed that his vote was diluted because the NVRA resulted in more people registering to vote than otherwise would have been the case. The court held that the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the National Voter Registration Act was unconstitutional on the theories that its enactment was not within the enumerated powers of the federal government and that it violated Article II of the United States Constitution.</p>	<p>individual lacked standing to bring the action. Because New York was not obliged to adhere to the requirements of the NVRA, the individual did not allege any concrete harm. If New York simply adopted election day registration for elections for federal office, it would have been entirely free of the NVRA just as were five other states. Even if the individual's vote were diluted, and</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>even if such an injury in other circumstances might have sufficed for standing, any dilution that he suffered was the result of New York's decision to maintain a voter registration system that brought it under the NVRA, not the NVRA itself. The court granted the motion to dismiss for lack of subject matter jurisdiction.</p>			
Peace &	California	114 Cal.	January 15,	Plaintiff	The trial court	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Freedom Party v. Shelley	Court of Appeal, Third Appellate District	App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42	2004	political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.	ruled that inactive voters were excluded from the primary election calculation. The court of appeals affirmed, observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the			

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					<p>case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in California could correct the record and</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					vote. Affirmed.			
McKay v. Thompson	United States Court of Appeals for the Sixth Circuit	226 F.3d 752; 2000 U.S. App. LEXIS 23387	September 18, 2000	Plaintiff challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	The trial court had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous caselaw, and could be	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>challenged in state court. The requirement did not violate the Privacy Act because it was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. Plaintiff</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>could not enforce § 1971 as it was enforceable only by the United States Attorney General. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. Although the trial court arguably erred in denying certification of the case to the USAG under</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					28 U.S.C.S. § 2403(a), plaintiff suffered no harm from the technical violation. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					right to vote, free exercise of religion, privileges and immunities, and due process claims.			
Lucas County Democratic Party v. Blackwell	United States District Court for the Northern District of Ohio	341 F. Supp. 2d 861; 2004 U.S. Dist. LEXIS 21416	October 21, 2004	Plaintiff organizations brought an action challenging a memorandum issued by defendant, Ohio's Secretary of State, in December 2003. The organizations claimed that the memorandum contravened provisions of the Help America Vote	The case involved a box on Ohio's voter registration form that required a prospective voter who registered in person to supply an Ohio driver's license number or the last four digits of their Social Security number. In his memorandum, the Secretary informed all	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Act and the National Voter Registration Act. The organizations moved for a preliminary injunction.	Ohio County Boards of Elections that, if a person left the box blank, the Boards were not to process the registration forms. The organizations did not file their suit until 18 days before the national election. The court found that there was not enough time before the election to develop the evidentiary record necessary to determine if the organizations			

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					<p>were likely to succeed on the merits of their claim. Denying the organizations' motion would have caused them to suffer no irreparable harm. There was no appropriate remedy available to the organizations at the time. The likelihood that the organizations could have shown irreparable harm was, in any event, slight in view of the fact that</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					they waited so long before filing suit. Moreover, it would have been entirely improper for the court to order the Boards to re--open in--person registration until election day. The public interest would have been ill--served by an injunction. The motion for a preliminary injunction was denied sua sponte.			
Nat'l Coalition for Students with Disabilities	United States District Court for	150 F. Supp. 2d 845; 2001 U.S. Dist.	July 5, 2001	Plaintiff, national organization for disabled	Defendants alleged that plaintiff lacked standing to	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Educ. & Legal Def. Fund v. Scales	the District of Maryland	LEXIS 9528		students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not registered			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim,</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the court found that the agency practice of only offering voter registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					university. Defendants' motion to dismiss first amended complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.			
People v. Disimone	Court of Appeals of Michigan	251 Mich. App. 605; 650 N.W.2d 436; 2002	July 11, 2002	Defendant was charged with attempting to vote more than once in the	Defendant was registered in the Colfax township for the 2000	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		Mich. App. LEXIS 826		2000 general election. The circuit court granted defendant's motion that the State had to prove specific intent. The State appealed.	general election. After presenting what appeared to be a valid voter's registration card, defendant proceeded to vote in the Grant township. Defendant had voted in the Colfax township earlier in the day. Defendant moved the court to issue an order that the State had to find that he had a specific intent to vote twice in order to be convicted. The appellate court			

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					reversed the circuit court judgment and held that under the rules of statutory construction, the fact that the legislature had specifically omitted certain trigger words such as "knowingly," "willingly," "purposefully," or "intentionally" it was unlikely that the legislature had intended for this to be a specific intent crime. The court also rejected the			

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					defendant's argument that phrases such as "offer to vote" and "attempt to vote" should be construed as synonymous terms, as when words with similar meanings were used in the same statute, it was presumed that the legislature intended to distinguish between the terms. The order of the circuit court was reversed.			
Diaz v. Hood	United States District	342 F. Supp. 2d 1111; 2004	October 26, 2004	Plaintiffs, unions and individuals who	The putative voters sought injunctive relief	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Southern District of Florida	U.S. Dist. LEXIS 21445		had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials moved to dismiss the complaint for lack of standing	requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental capacity, the second failed to check a box			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				and failure to state a claim.	indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					injury. Standing failed against the secretary of state. The motions to dismiss the complaint were granted without prejudice.			
Charles H. Wesley Educ. Found., Inc. v. Cox	United States District Court for the Northern District of Georgia	324 F. Supp. 2d 1358; 2004 U.S. Dist. LEXIS 12120	July 1, 2004	Plaintiffs, a voter, fraternity members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in	The organization participated in numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV.</p>	<p>mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Plaintiffs' motion for a preliminary injunction was granted. Defendants were ordered to process the applications received from</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the organization to determine whether those registrants were qualified to vote. Furthermore, defendants were enjoined from rejecting any voter registration application on the grounds that it was mailed as part of a "bundle" or that it was collected by someone not authorized or any other reason contrary to the NVRA.</p>			
Moseley v. Price	United States	300 F. Supp. 2d	January 22, 2004	Plaintiff alleged, that	The court concluded that	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	District Court for the Eastern District of Virginia	389; 2004 U.S. Dist. LEXIS 850		defendants' actions in investigating his voter registration application constituted a change in voting procedures requiring § 5 preclearance under the Voting Rights Act, which preclearance was never sought or received. Plaintiff claimed he withdrew from the race for Commonwealth Attorney because of the investigation.	plaintiff's claim under the Voting Rights Act lacked merit. Plaintiff did not allege, as required, that any defendants implemented a new, uncleared voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. Here, the existing practice or procedure in effect in the event a mailed registration card was			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Defendants moved to dismiss the complaint.</p>	<p>returned was to "resend the voter card, if address verified as correct." This was what precisely occurred. Plaintiff inferred, however, that the existing voting rule or practice was to resend the voter card "with no adverse consequences" and that the county's initiation of an investigation constituted the implementation of a change that had not been pre--cleared.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The court found the inference wholly unwarranted because nothing in the written procedure invited or justified such an inference. The court opined that common sense and state law invited a different inference, namely that while a returned card had to be resent if the address was verified as correct, any allegation of</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					fraud could be investigated. Therefore, there was no new procedure for which preclearance was required. The court dismissed plaintiff's federal claims. The court dismissed the state law claims without prejudice.			
Thompson v. Karben	Supreme Court of New York, Appellate Division, Second Department	295 A.D.2d 438; 743 N.Y.S.2d 175; 2002 N.Y. App. Div. LEXIS 6101	June 10, 2002	Respondents filed a motion seeking the cancellation of appellant's voter registration and political party enrollment on the ground that	Respondents alleged that appellant was unlawfully registered to vote from an address at which he did not reside and that he should	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellant was unlawfully registered to vote in a particular district. The Supreme Court, Rockland County, New York, ordered the cancellation of appellant's voter registration and party enrollment. Appellant challenged the trial court's order.</p>	<p>have voted from the address that he claimed as his residence. The appellate court held that respondents adduced insufficient proof to support the conclusion that appellant did not reside at the subject address. On the other hand, appellant submitted copies of his 2002 vehicle registration, 2000 and 2001 federal income tax returns, 2002 property tax bill, a May</p>			

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					<p>2001 paycheck stub, and 2000 and 2001 retirement account statements all showing the subject address. Appellant also testified that he was a signatory on the mortgage of the subject address and that he kept personal belongings at that address. Respondents did not sustain their evidentiary burden. The judgment of the trial court was reversed.</p>			
Nat'l Coalition	United	2002 U.S.	August 2,	Plaintiffs, a	The court	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
v. Taft	States District Court for the Southern District of Ohio	Dist. LEXIS 22376	2002	nonprofit public interest group and certain individuals, sued defendants, certain state and university officials, alleging that they violated the National Voter Registration Act in failing to designate the disability services offices at state public colleges and universities as voter registration sites. The group and individuals moved for a	found that the disability services offices at issue were subject to the NVRA because the term "office" included a subdivision of a government department or institution and the disability offices at issue were places where citizens regularly went for service and assistance. Moreover, the Ohio Secretary of State had an obligation under the NVRA to designate the			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				preliminary injunction.	disability services offices as voter registration sites because nothing in the law superceded the NVRA's requirement that the responsible state official designate disability services offices as voter registration sites. Moreover, under Ohio Rev. Code Ann. § 3501.05(R), the Secretary of State's duties expressly included			

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					<p>ensuring compliance with the NVRA. The case was not moot even though the Secretary of State had taken steps to ensure compliance with the NVRA given his position to his obligation under the law. The court granted declaratory judgment in favor of the nonprofit organization and the individuals. The motion for a preliminary</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					injunction was granted in part and the Secretary of State was ordered to notify disabled students who had used the designated disability services offices prior to the opening day of the upcoming semester or who had pre-registered for the upcoming semester as to voter registration availability.			
Lawson v. Shelby County	United States Court of Appeals for the	211 F.3d 331; 2000 U.S. App. LEXIS	May 3, 2000	Plaintiffs who were denied the right to vote when they	Plaintiffs attempted to register to vote in October, and	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Sixth Circuit	8634		refused to disclose their social security numbers, appealed a judgment of the United States District Court for the Western District of Tennessee at Memphis dismissing their amended complaint for failure to state claims barred by U.S. Const. amend. XI.	to vote in November, but were denied because they refused to disclose their social security numbers. A year after the election date they filed suit alleging denial of constitutional rights, privileges and immunities, the Privacy Act of 1974 and § 1983. The district court dismissed, finding the claims were barred by U.S. Const. amend. XI, and the one			

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					<p>year statute of limitations. The appeals court reversed, holding the district court erred in dismissing the suit because U.S. Const. amend. XI immunity did not apply to suits brought by a private party under the Ex Parte Young exception. Any damages claim not ancillary to injunctive relief was barred. The court also held the statute of limitations ran from the date plaintiffs</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were denied the opportunity to vote, not register, and their claim was thus timely. Reversed and remanded to district court to order such relief as will allow plaintiffs to vote and other prospective injunctive relief against county and state officials; declaratory relief and attorneys' fees ancillary to the prospective injunctive relief, all permitted under</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the Young exception to sovereign immunity, to be fashioned.			
Curtis v. Smith	United States District Court for the Eastern District of Texas	145 F. Supp. 2d 814; 2001 U.S. Dist. LEXIS 8544	June 4, 2001	Plaintiffs, representatives of several thousand retired persons who called themselves the "Escapees," and who spent a large part of their lives traveling about the United States in recreational vehicles, but were registered to vote in the county, moved for preliminary injunction seeking to	Before a general election, three persons brought an action alleging the Escapees were not bona fide residents of the county, and sought to have their names expunged from the rolls of qualified voters. The plaintiffs brought suit in federal district court. The court issued a	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				enjoin a Texas state court proceeding under the All Writs Act.	preliminary injunction forbidding county officials from attempting to purge the voting. Commissioner contested the results of the election, alleging Escapees' votes should be disallowed. Plaintiffs brought present case assertedly to prevent the same issue from being relitigated. The court held, however, the issues were different, since,			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>unlike the case in the first proceeding, there was notice and an opportunity to be heard. Further, unlike the first proceeding, the plaintiff in the state court action did not seek to change the prerequisites for voting registration in the county, but instead challenged the actual residency of some members of the Escapees, and such challenge</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					properly belonged in the state court. The court further held that an election contest under state law was the correct vehicle to contest the registration of Escapees. The court dissolved the temporary restraining order it had previously entered and denied plaintiffs' motion for preliminary injunction of the state court proceeding.			
Pepper v. Darnell	United States Court	24 Fed. Appx. 460;	December 10, 2001	Plaintiff individual	Individual argued on	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	of Appeals for the Sixth Circuit	2001 U.S. App. LEXIS 26618		<p>appealed from a judgment of the district court, in an action against defendant state officials seeking relief under § 1983 and the National Voter Registration Act, for their alleged refusal to permit individual to register to vote. Officials had moved for dismissal or for summary judgment, and the district court granted the motion.</p>	<p>appeal that the district court erred in finding that the registration forms used by the state did not violate the NVRA and in failing to certify a class represented by individual. Individual lived in his automobile and received mail at a rented box. Officials refused to validate individual's attempt to register to vote by mail. Tennessee state law forbade</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					accepting a rented mail box as the address of the potential voter. Individual insisted that his automobile registration provided sufficient proof of residency under the NVRA. The court upheld the legality of state's requirement that one registering to vote provide a specific location as an address, regardless of the transient lifestyle of the			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>potential voter, finding state's procedure faithfully mirrored the requirements of the NVRA as codified in the Code of Federal Regulations. The court also held that the refusal to certify individual as the representative of a class for purposes of this litigation was not an abuse of discretion; in this case, no representative party was available as the</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					indigent individual, acting in his own behalf, was clearly unable to represent fairly the class. The district court's judgment was affirmed.			
Miller v. Blackwell	United States District Court for the Southern District of Ohio	348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894	October 27, 2004	Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the	Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order (TRO). Two individuals filed a motion to intervene as defendants.</p>	<p>Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of success on the merits because they made a</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					also granted the individuals' motion to intervene.			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Miller v. Blackwell	United States District Court for the southern District of Ohio	348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894	October 27, 2004	Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order. Two individuals filed a motion to intervene as defendants.	Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>likelihood of success on the merits because they made a strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court also granted the individuals' motion to intervene.			
Spencer v. Blackwell	United States District Court for the Southern District of Ohio	347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062	November 1, 2004	Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls.	The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that	No	N/A	No

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 Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. Because the voters had shown a</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					substantial likelihood of success on the merits on the ground that the application of Ohio's statute allowing challengers at polling places was unconstitutional and the other factors governing the issuance of an injunction weighed in their favor, the court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					state on Election Day.			
Charfauros v. Bd. of Elections	United States Court of Appeals for the Ninth Circuit	2001 U.S. App. LEXIS 15083	May 10, 2001	Defendants, board of elections and related individuals, appealed from an order of the Supreme Court of the Commonwealth of the Northern Mariana Islands reversing a lower court's grant of summary judgment in favor of defendants on the ground of qualified immunity.	Plaintiffs, disqualified voters, claimed that individual members of the Commonwealth of the Northern Mariana Islands Board of Elections violated § 1983 by administering pre--election day voter challenge procedures which precluded a certain class of voters, including plaintiffs, from voting in a 1995 election. The CNMI Supreme Court reversed a lower court's grant of summary	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>judgment and defendants appealed. The court of appeals held that the Board's pre-election day procedures violated the plaintiffs' fundamental right to vote. The federal court reasoned that the right to vote was clearly established at the time of the election, and that a reasonable Board would have known that that treating voters differently based on their political party would violate the Equal</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Protection Clause. Further the court added that the allegations of the complaint were sufficient to support liability of the Board members in their individual capacities. Finally, the composition of the CNMI Supreme Court's Special Judge panel did not violate the Board's right to due process of law. The decision of Commonwealth of the Northern Mariana Islands Supreme Court was affirmed</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					where defendants' pre--election day voter challenge procedures violated plaintiffs' fundamental right to vote.			
Wit v. Berman	United States Court of Appeals for the Second Circuit	306 F.3d 1256; 2002 U.S. App. LEXIS 21301	October 11, 2002	Appellant voters who established residences in two separate cities sued appellees, state and city election officials, alleging that provisions of the New York State Election Law unconstitutionally prevented the voters from voting in local elections in both cities where they resided. The voters appealed the order of the	Under state election laws, the voters could only vote in districts in which they resided, and residence was limited to one place. The voters contended that, since they had two lawful residences, they were denied constitutional equal protection by the statutory restriction against voting in the local elections of both	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>United States District Court for the Southern District of New York which granted appellees' motion to dismiss the complaint.</p>	<p>of the places of their residences. The appellate court held, however, that no constitutional violation was shown since the provisions of the New York State Election Law imposed only reasonable, nondiscriminatory restrictions which advanced important state regulatory interests. While the voters may have interests in electoral outcomes in both cities, any rule permitting voting based on such interests would be</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>unmanageable and subject to potential abuse. Further, basing voter eligibility on domicile, which was always over--or under--inclusive, nonetheless had enormous practical advantages, and the voters offered no workable standard to replace the domicile test. Finally, allowing the voters to choose which of their residences was their domicile for voting purposes could not be deemed</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					discriminatory. Affirmed.			
Curtis v. Smith	United States District Court for the Eastern District of Texas	121 F. Supp. 2d 1054; 2000 U.S. Dist. LEXIS 17987	November 3, 2000	Plaintiffs sought a preliminary injunction to prohibit defendant tax assessor-collector from mailing confirmation letters to approximately 9,000 persons who were registered voters in Polk County, Texas.	Plaintiffs sought to prohibit defendant from mailing confirmation letters to approximately 9,000 persons, self-styled "escapees" who traveled a major portion of each year in recreational vehicles, all of whom were registered to vote in Polk County, Texas. In accordance with Texas law, three resident voters filed affidavits challenging the 'escapees'	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>residency. These affidavits triggered defendant's action in sending confirmation notices to the escapees. The court determined, first, that because of the potential for discrimination, defendant's action required preclearance in accordance with § 5 of the Voting Rights Act and, second, that such preclearance had not been sought or obtained. Accordingly, the court issued a preliminary injunction</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prohibiting defendant from pursuing the confirmation of residency of the escapees, or any similarly situated group, under the Texas Election Code until the process had been submitted for preclearance in accordance with § 5. The action was taken to ensure that no discriminatory potential existed in the use of such process in the upcoming presidential election or future election. Motion for preliminary injunction was</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					granted, and defendant was enjoined from pursuing confirmation of residency of the 9,000 "escapees," or any similarly situated group, under the Texas Election Code, until the process had been submitted for preclearance under § 5 of the Voting Rights Act.			
Peace & Freedom Party v. Shelley	Court of Appeal of California, Third Appellate District	114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42	January 15, 2004	Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel	The trial court ruled that inactive voters were excluded from the primary election. The court of appeals affirmed, observing that although the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.</p>	<p>election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>certain conditions, inactive voters in California could correct the record and vote as provided the Act. The court affirmed the denial of a writ of mandate.</p>			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				moved for summary judgment.	afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					resolve that challenge, did not contravene the MVA. Defendants' motions for summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			

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Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Charles H. Wesley Educ. Found., Inc. v. Cox	United States Court of Appeals for the Eleventh Circuit	408 F.3d 1349; 2005 U.S. App. LEXIS 8320	May 12, 2005	Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the	The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration	No	N/A	No

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Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				foundation.	forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p>			
McKay v.	United	226 F.3d	September	Plaintiff	The trial court	No	N/A	No

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Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thompson	States Court of Appeals for the Sixth Circuit	752; 2000 U.S. App. LEXIS 23387	18, 2000	challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims.			
Nat'l	United	150 F.	July 5,	Plaintiff, national	Defendants	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales	States District Court for the Southern District of Maryland	Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528	2001	organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not			

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 Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.			
Cunningham v. Chi. Bd. of Election Comm'rs	United States District Court for the Northern District of Illinois	2003 U.S. Dist. LEXIS 2528	February 24, 2003	Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed	Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p>	<p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					preliminary relief was denied.			
Diaz v. Hood	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445	October 26, 2004	Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials	The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p>	<p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prejudice granted.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment.	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause	The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p>	<p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p>			

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Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

FOCUS OF CURRENT RESEARCH

- develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of Federal elections;
- perform background research (including Federal and State administrative and case law review), identify current activities of key government agencies, civic and advocacy organizations regarding these topics, and deliver a summary of this research and all source documentation;
- establish a project working group, in consultation with EAC, composed of key individuals and representatives of organizations knowledgeable about the topics of voting fraud and voter intimidation;
- provide the description of what constitutes voting fraud and voter intimidation and the results of the preliminary research to the working group, and convene the working group to discuss potential avenues for future EAC research on this topic; and
- produce a report to EAC summarizing the findings of the preliminary research effort and working group deliberations that includes recommendations for future research, if any;

PURPOSE OF WORKING GROUP

Given the preliminary research, your expertise, and EAC's authority under HAVA, provide your ideas as to ---

WHERE DOES EAC GO FROM HERE?

Purpose is **NOT** to debate what other agencies or organizations should or should not be doing.

Defining Election Fraud

Election fraud is any intentional action, or intentional failure to act when there is a duty to do so, that corrupts the election process in a manner that can impact on election outcomes. This includes interfering in the process by which persons register to vote; the way in which ballots are obtained, marked, or tabulated; and the process by which election results are canvassed and certified.

Examples include the following:

- falsifying voter registration information pertinent to eligibility to cast a vote, (e.g. residence, criminal status, etc);
- altering completed voter registration applications by entering false information;
- knowingly destroying completed voter registration applications (other than spoiled applications) before they can be submitted to the proper election authority;
- knowingly removing eligible voters from voter registration lists, in violation of HAVA, NVRA, or state election laws;
- intentional destruction by election officials of voter registration records or balloting records, in violation of records retention laws, to remove evidence of election fraud;
- vote buying;
- voting in the name of another;
- voting more than once;
- coercing a voter's choice on an absentee ballot;
- using a false name and/or signature on an absentee ballot;
- destroying or misappropriating an absentee ballot;
- felons, or in some states ex-felons, who vote when they know they are ineligible to do so;
- misleading an ex-felon about his or her right to vote;
- voting by non-citizens who know they are ineligible to do so;
- intimidating practices aimed at vote suppression or deterrence, including the abuse of challenge laws;
- deceiving voters with false information (e.g.; deliberately directing voters to the wrong polling place or providing false information on polling hours and dates);
- knowingly failing to accept voter registration applications, to provide ballots, or to accept and count voted ballots in accordance with the Uniformed and Overseas Citizens Absentee Voting Act;
- intentional miscounting of ballots by election officials;
- intentional misrepresentation of vote tallies by election officials;

- acting in any other manner with the intention of suppressing voter registration or voting, or interfering with vote counting and the certification of the vote.

Voting fraud does not include mistakes made in the course of voter registration, balloting, or tabulating ballots and certifying results. For purposes of the EAC study, it also does not include violations of campaign finance laws.

DRAFT

**Determining a Methodology for Measuring Voter Fraud and Intimidation:
Recommendations of Political Scientists**

The following is a summary of interviews conducted with a number of political scientists and experts in the field as to how one might undertake a comprehensive examination of voter fraud and intimidation. A list of the individuals interviewed and their ideas are available, and all of the individuals welcome any further questions or explanations of their recommended procedures.

- 1) In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources: the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that ask whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. (Stephen Ansolobhere, MIT)

- 2) Several political scientists with expertise in these types of studies recommended a methodology that includes interviews, focus groups, and a limited survey. In determining who to interview and where the focus groups should be drawn from, they recommend the following procedure:
 - Pick a number of places that have historically had many reports of fraud and/or intimidation; from that pool pick 10 that are geographically and demographically diverse, and have had a diversity of problems
 - Pick a number of places that have not had many reports of fraud and/or intimidation; from that pool pick 10 places that match the geographic and demographic make-up of the previous ten above (and, if possible, have comparable elections practices)
 - Assess the resulting overall reports and impressions resulting from these interviews and focus groups, and examine comparisons and differences among the states and what may give rise to them.

In conducting a survey of elections officials, district attorneys, district election officers, they recommend that:

- The survey sample be large in order to be able to get the necessary subsets
- The survey must include a random set of counties where there have and have not been a large number of allegations

(Allan Lichtman, American University; Thad Hall, University of Utah; Bernard Grofman, UC – Irvine)

- 3) Another political scientist recommended employing a methodology that relies on qualitative data drawn from in-depth interviews with key critics and experts on all sides of the debate on fraud; quantitative data collected through a survey of state and local elections and law enforcement officials; and case studies. Case studies should focus on the five or ten states, regions or cities where there has been a history of election fraud to examine past and present problems. The survey should be mailed to each state's attorney general and secretary of state, each county district attorney's office and each county board of elections in the 50 states. (Lorraine Minnite, Barnard College)
- 4) The research should be a two-step process. Using LexisNexis and other research tools, a search should be conducted of news media accounts over the past decade. Second, interviews with a systematic sample of election officials nationwide and in selected states should be conducted. (Chandler Davidson, Rice University)
- 5) One expert in the field posits that we can never come up with a number that accurately represents either the incidence of fraud or the incidence of voter intimidation. Therefore, the better approach is to do an assessment of what is most likely to happen, what election violations are most likely to be committed – in other words, a risk analysis. This would include an analysis of what it would actually take to commit various acts, e.g. the cost/benefit of each kind of violation. From there we could rank the likely prevalence of each type of activity and examine what measures are or could be effective in combating them. (Wendy Weiser, Brennan Center of New York University)
- 6) Replicate a study in the United States done abroad by Susan Hyde of the University of California- San Diego examining the impact of impartial poll site observers on the incidence of election fraud. Doing this retrospectively would require the following steps:
 - Find out where there were federal observers
 - Get precinct level voting information for those places
 - Analyze whether there was any difference in election outcomes in those places with and without observers, and whether any of these results seem anomalous.

Despite the tremendous differences in the political landscapes of the countries examined by Hyde in previous studies and the U.S., Hyde believes this study could be effectively replicated in this country by sending observers to a random sample of precincts. Rather than compare the incumbent's vote share, such factors such as voter complaints, voter turnout, number of provisional ballots used, composition of the electorate, as well as any anomalous voting results could be compared between sites with and without monitors.

For example, if intimidation is occurring, and if reputable monitors make intimidation less likely or voters more confident, then turnout should be higher on average in monitored precincts than in unmonitored precincts. If polling station officials are intentionally refusing to issue provisional ballots, and the polling station officials are

more likely to adhere to regulations while being monitored, the average number of provisional ballots should be higher in monitored precincts than in unmonitored precincts. If monitors cause polling station officials to adhere more closely to regulations, then there should be fewer complaints (in general) about monitored than unmonitored precincts (this could also be reversed if monitors made voters more likely to complain).

Again, random assignment controls for all of the other factors that otherwise influence these variables.

One of the downsides of this approach is it does not get at some forms of fraud, e.g. absentee ballot fraud; those would have to be analyzed separately

7) Another political scientist recommends conducting an analysis of vote fraud claims and purging of registration rolls by list matching. Allegations of illegal voting often are based on matching of names and birth dates. Alleged instances of double voting are based on matching the names and birth dates of persons found on voting records. Allegations of ineligible felon (depending on state law), deceased, and of non-citizen voting are based on matching lists of names, birth dates, and sometimes addresses of such people against a voting records. Anyone with basic relational database skills can perform such matching in a matter of minutes.

However, there are a number of pitfalls for the unwary that can lead to grossly over-estimating the number of fraudulent votes, such as missing or ignored middle names and suffixes or matching on missing birth dates. Furthermore, there is a surprising statistical fact that a group of about three hundred people with the same first and last name are almost assured to share the exact same birth date, including year. In a large state, it is not uncommon for hundreds of Robert Smiths (and other common names) to have voted. Thus, allegations of vote fraud or purging of voter registration rolls by list matching almost assuredly will find a large proportion of false positives: people who voted legally or are registered to vote legally.

Statistics can be rigorously applied to determine how many names would be expected to be matched by chance. A simulation approach is best applied here: randomly assign a birth date to an arbitrary number of people and observe how many match within the list or across lists. The simulation is repeated many times to average out the variation due to chance. The results can then be matched back to actual voting records and purge lists, for example, in the hotly contested states of Ohio or Florida, or in states with Election Day registration where there are concerns that easy access to voting permits double voting. This analysis will rigorously identify the magnitude alleged voter fraud, and may very well find instances of alleged fraud that exceed what might have otherwise happened by chance.

This same political scientist also recommends another way to examine the problem: look at statistics on provisional voting: the number cast might provide indications of intimidation (people being challenged at the polls) and the number of those not counted

would be indications of "vote fraud." One could look at those jurisdictions in the Election Day Survey with a disproportionate number of provisional ballots cast and cross reference it with demographics and number of provisional ballots discarded. (Michael McDonald, George Mason University)

- 8) Spencer Overton, in a forthcoming law review article entitled *Voter Identification*, suggests a methodology that employs three approaches— investigations of voter fraud, random surveys of voters who purported to vote, and an examination of death rolls provide a better understanding of the frequency of fraud. He says all three approaches have strengths and weaknesses, and thus the best studies would employ all three to assess the extent of voter fraud. An excerpt follows:

1. *Investigations and Prosecutions of Voter Fraud*

Policymakers should develop databases that record all investigations, allegations, charges, trials, convictions, acquittals, and plea bargains regarding voter fraud. Existing studies are incomplete but provide some insight. For example, a statewide survey of each of Ohio's 88 county boards of elections found only four instances of ineligible persons attempting to vote out of a total of 9,078,728 votes cast in the state's 2002 and 2004 general elections. This is a fraud rate of 0.00000045 percent. The Carter-Baker Commission's Report noted that since October 2002, federal officials had charged 89 individuals with casting multiple votes, providing false information about their felon status, buying votes, submitting false voter registration information, and voting improperly as a non-citizen. Examined in the context of the 196,139,871 ballots cast between October 2002 and August 2005, this represents a fraud rate of 0.00000005 percent (note also that not all of the activities charged would have been prevented by a photo identification requirement).

A more comprehensive study should distinguish voter fraud that could be prevented by a photo identification requirement from other types of fraud — such as absentee voting and stuffing ballot boxes — and obtain statistics on the factors that led law enforcement to prosecute fraud. The study would demand significant resources because it would require that researchers interview and pour over the records of local district attorneys and election boards.

Hard data on investigations, allegations, charges, pleas, and prosecutions is important because it quantifies the amount of fraud officials detect. Even if prosecutors vigorously pursue voter fraud, however, the number of fraud cases charged probably does not capture the total amount of voter fraud. Information on official investigations, charges, and prosecutions should be supplemented by surveys of voters and a comparison of voting rolls to death rolls.

2. *Random Surveys of Voters*

Random surveys could give insight about the percentage of votes cast fraudulently. For example, political scientists could contact a statistically representative sampling of 1,000 people who purportedly voted at the polls in the last election, ask them if they actually voted, and confirm the percentage who are valid voters. Researchers should conduct the survey soon after an election to locate as many legitimate voters as possible with fresh memories.

Because many respondents would perceive voting as a social good, some who did not vote might claim that they did, which may underestimate the extent of fraud. A surveyor might mitigate this skew through the framing of the question (“I’ve got a record that you voted. Is that true?”).

Further, some voters will not be located by researchers and others will refuse to talk to researchers. Photo identification proponents might construe these non-respondents as improper registrations that were used to commit voter fraud.

Instead of surveying all voters to determine the amount of fraud, researchers might reduce the margin of error by focusing on a random sampling of voters who signed affidavits in the three states that request photo identification but also allow voters to establish their identity through affidavit—Florida, Louisiana, and South Dakota. In South Dakota, for example, only two percent of voters signed affidavits to establish their identity. If the survey indicates that 95 percent of those who signed affidavits are legitimate voters (and the other 5 percent were shown to be either fraudulent or were non-responsive), this suggests that voter fraud accounts for, at the maximum, 0.1 percent of ballots cast.

The affidavit study, however, is limited to three states, and it is unclear whether this sample is representative of other states (the difficulty may be magnified in Louisiana in the aftermath of Hurricane Katrina’s displacement of hundreds of thousands of voters). Further, the affidavit study reveals information about the amount of fraud in a photo identification state with an affidavit exception—more voter fraud may exist in a state that does not request photo identification.

3. *Examining Death Rolls*

A comparison of death rolls to voting rolls might also provide an estimate of fraud.

Imagine that one million people live in state A, which has no documentary identification requirement. Death records show that 20,000 people passed away in state A in 2003. A cross-referencing of this list to the voter rolls shows that 10,000 of those who died were registered voters, and these names remained on the voter rolls during the November 2004 election. Researchers would look at what percentage of the 10,000 dead-but-registered people who “voted” in the November 2004 election. A researcher should distinguish the votes cast in the name of the dead at the polls from those cast

absentee (which a photo identification requirement would not prevent). This number would be extrapolated to the electorate as a whole.

This methodology also has its strengths and weaknesses. If fraudulent voters target the dead, the study might overestimate the fraud that exists among living voters (although a low incidence of fraud among deceased voters might suggest that fraud among all voters is low). The appearance of fraud also might be inflated by false positives produced by a computer match of different people with the same name. Photo identification advocates would likely assert that the rate of voter fraud could be higher among fictitious names registered, and that the death record survey would not capture that type of fraud because fictitious names registered would not show up in the death records. Nevertheless, this study, combined with the other two, would provide important insight into the magnitude of fraud likely to exist in the absence of a photo identification requirement.



VOTING FRAUD-VOTER INTIMIDATION WORKING GROUP MEETING

Thursday, May 18, 2006

1:00 PM - 5:30 PM

**U.S. Election Assistance Commission
1225 New York Avenue, N.W., 11th Floor
Washington, D.C. 20005**

AGENDA

- | | |
|--------------------------|---|
| 1:00 PM - 1:30 PM | Introduction

EAC Authority
Overview and Purpose of Current Project
Purpose and Members of the Working Group
Related EAC Research |
| 1:30 PM - 2:00 PM | Review of Preliminary Research

Literature & Reports
Interviews
News Articles
Court Cases |
| 2:00 PM - 3:15 PM | Definition & Findings from Current Project Research |
| 3:15 PM - 3:30 PM | Break |
| 3:30 PM - 5:00 PM | Ideas for Future EAC Activities

Recommended Research Methodologies
Consultant Recommendations
Working Group Ideas |
| 5:00 PM - 5:30 PM | EAC Next Steps |

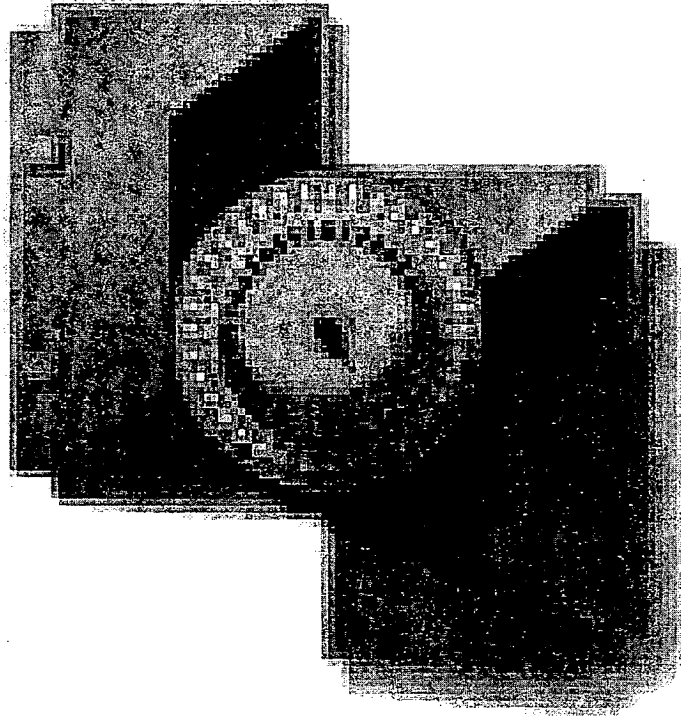
012930

Development of:

- nationwide statistics and methods of identifying, deterring, and investigating ██████████ in elections for Federal office [section 241(b)(6)]; and
- ways of identifying, deterring, and investigating ██████████ [section 241(b)(7)].

012931

012931



Federal Government

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012934

Biographies

012935

Practice Areas

012938

Offices

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#sidebar {
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    BACKGROUND-COLOR: #c4cfd
}
.border1 {
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    #ebe0b4; BORDER-RIGHT-COLOR: #ebe0b4
}
.border2 {
    BORDER-RIGHT: #000099 5px solid; PADDING-RIGHT: 10px; BORDER-TOP: #000099
    5px solid; PADDING-LEFT: 10px; BORDER-LEFT: #000099 5px solid; PADDING-TOP: 10px;
    BORDER-BOTTOM: #000099 5px solid; BACKGROUND-COLOR: #ffffff
}
}
```

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ROME

GOVERNMENT RELATIONS

LC



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PATRICK J. ROGERS

PROFESSIONAL EMPLOYMENT

1988-Present	Partner/Shareholder, Modrall, Sperling, Roehl, Harris and Sisk, P.A., Albuquerque, New Mexico
1993-1995	Executive Committee, Modrall, Sperling, Roehl, Harris & Sisk, P.A., Albuquerque, New Mexico
1983-1988	Associate Attorney, Modrall, Sperling, Roehl, Harris and Sisk, P.A., Albuquerque, New Mexico
1981-1983	Legislative Assistant to U.S. Senator Harrison H. Schmitt
1976-1981	Land Law Examiner, Bureau of Land Management, Santa Fe, New Mexico and Washington, D.C.

EDUCATION

J.D.	GEORGETOWN UNIVERSITY SCHOOL OF LAW, Washington, D.C. - December, 1981 Dean's List, Law Fellow
B.A.	UNIVERSITY OF NEW MEXICO, December, 1976 Magna Cum Laude Major - Political Science/Economics

PROFESSIONAL ORGANIZATIONS/ACTIVITIES

1997-2002	Mountain States Legal Foundation, Litigation Board of Directors
1991-2003	General Counsel to the New Mexico Republican Party, Executive Committee Member
1993-2000	Counsel to the Bernalillo County Republican Party, Executive Committee Member
1983-Present	Albuquerque Bar Association
1983-Present	New Mexico Bar Association
1983-Present	American Bar Association, Litigation and Trial Sections
1988	Law Day Chairman, State Bar of New Mexico

COMMUNITY ACTIVITIES

2000-2003	Dismas House Board of Directors
1997-2000	Economic Forum Board of Directors
1990-1995	Governor's Organized Crime Prevention Commission
1989-Present	Kiwanis
1985-1998	YABL Basketball Coach; NWRG - Alameda Soccer Coach
1987-1991	Special Assistant District Attorney, Bernalillo County
1989-1991	Metropolitan Court Judicial Selection Committee

PRACTICE AREAS (AV Rated Martindale-Hubbell)

Commercial, Administrative and Constitutional Litigation
Lobbying: (Representative clients: Newmont Mining Company, Duke Energy North America and Verizon Wireless)

PUBLICATIONS

012941

Survey of the New Mexico Privacy and Related Claims against the Media for the National Libel Research Defense Counsel

Reporters Committee for Freedom of the Press: New Mexico Open Records, Open Meetings and Related Constitutional Issues

New Mexico Reporter=s Handbook on Media Law

Reporters Committee for Freedom of the Press: ATapping Officials= Secrets@

ELECTION LAW EXPERIENCE

The Coalition to Expose Ballot Deception, et al v. Judy N. Chavez, et al; Second Judicial District Court of Bernalillo County, New Mexico (2005); represented plaintiffs challenging petition procedures.

Miguel Gomez v. Ken Sanchez and Judy Chaves; Second Judicial District Court of Bernalillo County, New Mexico (2005); residency challenge.

Moises Griego, et al v. Rebecca Vigil-Giron v. Ralph Nader and Peter Miguel Camejo, Supreme Court for the State of New Mexico (2004); represented Ralph Nader and Peter Camejo, ballot access issues.

Larry Larrañaga, et al v. Mary E. Herrera and Rebecca Vigil-Giron, Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues.

Decker, et al v. Kunko, et al; District Court of Chaves County, New Mexico (2004); voter identification and fraudulent registration issues.

Kunko, et al v. Decker, et al; Supreme Court of New Mexico (2004); voter identification and fraudulent registration issues.

In the Matter of the Security of Ballots Cast in Bernalillo County in the 2000 General Election; Second Judicial District Court of Bernalillo County, New Mexico (2000); voting and counting irregularities and fraud.

Larrogoite v. Vigil-Giron and Archuletta; First Judicial District Court of Santa Fe County, New Mexico (1990); petition challenge, U.S. House of Representatives

J. R. Perez
Guadalupe County Elections Administrator
307 West Court
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Business 830-303-6363
E-Mail [REDACTED]
Website: www.Guadalupe-Elections.com

Education:

The University of Texas at Austin
Bachelor of Business Administration

Office Held:

Appointed Guadalupe County Elections Administrator, January 1993.

Credits:

Certified Elections / Registration Administrator; August 26, 1998. The Election Center; Professional Education Program.

Elected President of the Texas Association of Elections Administrators, 1997-1998.

Legislative Chairman for Texas Association of Elections Administrators, 1998-1999

Received Certificate of Appreciation from the Secretary of State, Elections Division, for Presentation Made During the Thirteenth Annual Election Law Seminar.

Received Certificate of Appreciation from the Secretary of State, Elections Division, for "Training Your Judges" Presentation Made During the Fourteenth Annual Election Law Seminar.

Received Certificate of Appreciation from the Secretary of State, Elections Division, for "Creating Your Own Website:" Presentation Made During the Fifteenth Annual Election Law Seminar.

Received Certificate of Award, Professional Practices Paper, Elections Center Conference, Boston.

Received Certificate of Award, Iacreat Website: Contest, Recognition of Excellence in Category I for Website:

Appointed to the Secretary of State's Advisory Panel for the Texas Voter Registration System. (TEAM)

Received Certificate of Appreciation from the Secretary of State, Elections Division, for the "Website:" presentation made during the Eighteenth Annual Election Law Seminar.

Received Certificate of Award, Professional Practices Paper, Elections Center Conference, Beverly Hills.

Received Certificate of Appreciation from the Secretary of State, Elections Division for presentation made during the Twenty First Annual Election Law Seminar.

Received Certificate of Appreciation from the Secretary of State, Elections Division for presentation made during the Twenty Third Annual Election Law Seminar.

Participated in the U. S. Election Assistance Commission Meeting on improving the collection of Election Data.

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012945

Benjamin L. Ginsberg represents numerous political parties, political campaigns, candidates, members of Congress and state legislatures, Governors, corporations, trade associations, vendors, donors and individuals participating in the political process.

In both the 2004 and 2000 election cycles, Mr. Ginsberg served as national counsel to the Bush-Cheney presidential campaign; he played a central role in the 2000 Florida recount. He also represents the campaigns and leadership PACs of numerous members of the Senate and House, as well as the Republican National Committee, National Republican Senatorial Committee and National Republican Congressional Committee. He serves as counsel to the Republican Governors Association and has wide experience on the state legislative level from directing Republican redistricting efforts nationwide following the 1990 Census and being actively engaged in the 2001—2002 round of redistricting.

In addition to advising on election law issues, particularly those involving federal and state campaign finance laws, ethics rules, redistricting, communications law, and election recounts and contests, Mr. Ginsberg represents clients before Congress and state legislatures.

Before entering law school, he spent five years as a newspaper reporter on The Boston Globe, Philadelphia Evening Bulletin, The Berkshire (Mass.) Eagle, and The Riverside (Calif.) Press-Enterprise. He has been adjunct professor of law at the Georgetown University Law Center lecturing on law and the political process.

Education

- Georgetown University Law Center, J.D., 1982
- University of Pennsylvania, A.B., 1974

Bar Admissions

- District of Columbia

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Additionally, none of the ballots in Monroe County's second precinct contained the requisite initialing.			
Gilmore v. Amityville Union Free Sch. Dist.	United States District Court for the Eastern District of New York	305 F. Supp. 2d 271; 2004 U.S. Dist. LEXIS 3116	March 2, 2004	Plaintiffs, two school board candidates, filed a class action complaint against defendants, a school district, the board president, and other district agents or employees, challenging a school board election. Defendants moved to dismiss.	During the election, a voting machine malfunctioned, resulting in votes being cast on lines that were blank on the ballot. The board president devised a plan for counting the machine votes by moving each tally up one line. The two candidates, who were African	No	N/A	No

Deliberative Process
Privilege

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>American, alleged that the president's plan eliminated any possibility that an African American would be elected. The court found that the candidates failed to state a claim under § 1983 because they could not show that defendants' actions were done or approved by a person with final policymaking authority, nor was there a showing of intentional or</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>purposeful discrimination on defendants' part. The vote-counting method applied equally to all candidates. The candidates' claims under § 2000a and 2000c--8 failed because schools were not places of public accommodation, as required under § 2000a, and § 2000c--8 applied to school segregation. Their claim under § 1971 of deprivation of voting rights failed because §</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					1971 did not provide for a private right of action. The court declined to exercise supplemental jurisdiction over various state law claims. Defendants' motion to dismiss was granted with respect to the candidates' federal claims; the state law claims were dismissed without prejudice.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot,	The Secretary of State issued a directive to all Ohio county boards of	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074		sought review of a judgment from the court of appeals, which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional ballots were not counted. They, together with a political activist group, brought the mandamus action to compel			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The court dismissed the complaint, finding that no clear legal right was established under Ohio law and the federal claims could be adequately raised in an action under §</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>1983. On appeal, the Ohio supreme court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed under § 1983 to raise the federal--law claims. Affirmed.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Touchston v. McDermott	United States District Court for the Middle District of Florida	120 F. Supp. 2d 1055; 2000 U.S. Dist. LEXIS 20091	November 14, 2000	In action in which plaintiffs, registered voters in Brevard County, Florida, filed suit against defendants, members of several County Canvassing Boards and the Secretary of the Florida Department of State, challenging the constitutionality of Fla. Stat. Ann. § 102.166(4) (2000), before the court was plaintiffs' emergency motion for temporary restraining order and/or preliminary injunction.	In their complaint, plaintiffs challenged the constitutionality of § 102.166(4), asserting that the statute violated their rights under the Equal Protection and Due Process Clauses of U.S. Const. amend. XIV. Based on these claims, plaintiffs sought an order from the court stopping the manual recount of votes. The court found that plaintiffs had failed to set forth a valid	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>basis for intervention by federal courts. They had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. Moreover, plaintiffs had not established a likelihood of success on the merits of their claims. Plaintiffs' motion for temporary restraining order and/or</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					preliminary injunction denied; plaintiffs had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote.			
Siegel v. LePore	United States District Court for the Southern District of Florida	120 F. Supp. 2d 1041; 2000 U.S. Dist. LEXIS 16333	November 13, 2000	Plaintiffs, individual Florida voters and Republican Party presidential and vice-presidential candidates, moved for a temporary restraining order and preliminary injunction to	The court addressed who should consider plaintiffs' serious arguments that manual recounts would diminish the accuracy of vote counts due to ballot	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				enjoin defendants, canvassing board members from four Florida counties, from proceeding with manual recounts of election ballots.	degradation and the exercise of discretion in determining voter intent. The court ruled that intervention by a federal district court, particularly on a preliminary basis, was inappropriate. A federal court should not interfere except where there was an immediate need to correct a constitutional violation. Plaintiffs neither demonstrated a clear deprivation of a constitutional			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>injury or a fundamental unfairness in Florida's manual recount provision. The recount provision was reasonable and non--discriminatory on its face and resided within the state's broad control over presidential election procedures. Plaintiffs failed to show that manual recounts were so unreliable as to constitute a constitutional injury, that plaintiffs'</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>alleged injuries were irreparable, or that they lacked an adequate state court remedy. Injunctive relief denied because plaintiffs demonstrated neither clear deprivation of constitutional injury or fundamental unfairness in Florida's manual recount provision to justify federal court interference in state election procedures.</p>			
Gore v. Harris	Supreme Court of	773 So. 2d 524;	December 22, 2000	In a contest to results of the 2000	The state supreme court	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Florida	2000 Fla. LEXIS 2474		presidential election in Florida, the United States Supreme Court reversed and remanded a Florida Supreme Court decision that had ordered a manual recount of certain ballots.	had ordered the trial court to conduct a manual recount of 9000 contested Miami--Dade County ballots, and also held that uncounted "undervotes" in all Florida counties were to be manually counted. The trial court was ordered to use the standard that a vote was "legal" if there was a clear indication of the intent of the voter. The United States Supreme Court released an			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>opinion on December 12, 2000, which held that such a standard violated equal protection rights because it lacked specific standards to ensure equal application, and also mandated that any manual recount would have to have been completed by December 12, 2000. On remand, the state supreme court found that it was impossible under that time frame to adopt adequate</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					standards and make necessary evaluations of vote tabulation equipment. Also, development of a specific, uniform standard for manual recounts was best left to the legislature. Because adequate standards for a manual recount could not be developed by the deadline set by the United States Supreme Court, appellants were afforded no relief.			
Goodwin v. St.	Territorial	43 V.I.	December	Plaintiff political	Plaintiff alleged	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thomas--St. John Bd. of Elections	Court of the Virgin Islands	89; 2000 V.I. LEXIS 15	13, 2000	candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots.	that defendants counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court held that plaintiff was not entitled to relief since he failed to establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>requirements. Further, while defendants improperly counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots without notarized signatures were proper. Plaintiff's request for declaratory and injunctive relief was denied. Invalidation of absentee ballots was not required since the irregularities asserted by plaintiff involved ballots which were in fact valid, were not tabulated by defendants, or were insufficient to change the outcome of the election.			
Shannon v.	United	394 F.3d	January 7,	Plaintiffs, voters	Local election	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Jacobowitz	States Court of Appeals for the Second Circuit	90; 2005 U.S. App. LEXIS 259	2005	and an incumbent candidate, sued defendants, a challenger candidate, a county board of election, and commissioners, pursuant to § 1983 alleging violation of the Due Process Clause of the Fourteenth Amendment. The United States District Court for the Northern District of New York granted summary judgment in favor of plaintiffs. Defendants appealed.	inspectors noticed a problem with a voting machine. Plaintiffs asserted that their votes were not counted due to the machine malfunction. Rather than pursue the state remedy of quo warranto, by requesting that New York's Attorney General investigate the machine malfunction and challenge the election results in state court, plaintiffs filed their complaint in federal court.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The court of appeals found that United States Supreme Court jurisprudence required intentional conduct by state actors as a prerequisite for a due process violation. Neither side alleged that local officials acted intentionally or in a discriminatory manner with regard to the vote miscount. Both sides conceded that the recorded results were</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>likely due to an unforeseen malfunction with the voting machine. Because no conduct was alleged that would indicate an intentional deprivation of the right to vote, there was no cognizable federal due process claim. The proper remedy was to assert a quo warranto action to challenge the outcome of a general election based on an alleged voting machine malfunction.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					The district court's grant of summary judgment was reversed and its injunctions were vacated. The case was remanded for further proceedings consistent with this opinion.			
GEORGE W. BUSH v. PALM BEACH COUNTY CANVASSING BOARD, ET AL.	United States Supreme Court	531 U.S. 70; 121 S. Ct. 471; 148 L. Ed. 2d 366; 2000 U.S. LEXIS 8087	December 4, 2000	Appellant Republican presidential candidate's petition for writ of certiorari to the Florida supreme court was granted in a case involving interpretations of Fla. Stat. Ann. §§ 102.111, 102.112, in proceedings brought by	The Supreme Court vacated the state court's judgment, finding that the state court opinion could be read to indicate that it construed the Florida Election Code without regard to the extent to which	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellees Democratic presidential candidate, county canvassing boards, and Florida Democratic Party regarding authority of the boards and respondent Florida Secretary of State as to manual recounts of ballots and deadlines.</p>	<p>the Florida Constitution could, consistent with U.S. Const. art. II, § 1, cl. 2, circumscribe the legislative power. The judgment of the Florida Supreme Court was vacated and remanded for further proceedings. The court stated the judgment was unclear as to the extent to which the state court saw the Florida constitution as circumscribing the legislature's authority under</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Article II of the United States Constitution, and as to the consideration given the federal statute regarding state electors.			
Touchston v. McDermott	United States Court of Appeals for the Eleventh Circuit	234 F.3d 1130; 2000 U.S. App. LEXIS 29366	November 17, 2000	Plaintiff voters appealed from judgment of the United States District Court for the Middle District of Florida, which denied their emergency motion for an injunction pending appeal against defendant county election officials. Plaintiffs sought to enjoin defendants from conducting manual ballot recounts or	Plaintiff voters sought an emergency injunction pending appeal to enjoin defendant county election officials from conducting manual ballot recounts or to enjoin defendants from certifying the results of the Presidential election which	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				to enjoin defendants from certifying results of the presidential election that contained any manual recounts.	contained any manual recounts. The district court denied the emergency injunction and plaintiffs appealed. Upon review, the emergency motion for injunction pending appeal was denied without prejudice. Florida had adequate election dispute procedures, which had been invoked and were being implemented in the forms of administrative			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>actions by state officials and actions in state court. Therefore, the state procedures were adequate to preserve for ultimate review in the United States Supreme Court any federal questions arising out of the state procedures. Moreover, plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would warrant granting the extraordinary</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					remedy of an injunction pending appeal. Denial of plaintiff's petition for emergency injunction pending appeal was affirmed. The state procedures were adequate to preserve any federal issue for review, and plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would have warranted granting the extraordinary remedy of the			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					injunction.			
Gore v. Harris	Supreme Court of Florida	772 So. 2d 1243; 2000 Fla. LEXIS 2373	December 8, 2000	The court of appeal certified as being of great public importance a trial court judgment that denied all relief requested by appellants, candidates for President and Vice President of the United States, in appellants' contest to certified election results.	Appellants contested the certification of their opponents as the winners of Florida's electoral votes. The Florida supreme court found no error in the trial court's holding that it was proper to certify election night returns from Nassau County rather than results of a machine recount. Nor did the trial court err in refusing to include votes that the Palm Beach County	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Canvassing Board found not to be legal votes during a manual recount. However, the trial court erred in excluding votes that were identified during the Palm Beach County manual recount and during a partial manual recount in Miami--Dade County. It was also error to refuse to examine Miami--Dade County ballots that registered as non--votes during the machine count.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The trial court applied an improper standard to determine whether appellants had established that the result of the election was in doubt, and improperly concluded that there was no probability of a different result without examining the ballots that appellants claimed contained rejected legal votes. The judgment was reversed and remanded; the</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					trial court was ordered to tabulate by hand Miami-Dade County ballots that the counting machine registered as non--votes, and was directed to order inclusion of votes that had already been identified during manual recounts. The trial court also was ordered to consider whether manual recounts in other counties were necessary.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
James v. Bartlett	Supreme Court of North Carolina	359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146	February 4, 2005	Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed.	The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots to be counted in state and local elections. The candidates failure to challenge the counting of out--of--precinct provisional ballots before the election did not render their action untimely. Reversed and remanded.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	387 F.3d 565; 2004 U.S. App. LEXIS 22320	October 26, 2004	Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast	The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p>	<p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted.</p> <p>Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					legal votes. Affirmed in part and reversed in part.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p>			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					under § 1983 to raise the federal-law claims. Affirmed.			
Fla. Democratic Party v. Hood	United States District Court for the Northern District of Florida	342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720	October 21, 2004	Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings.	The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p>			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					was cast in the proper precinct under State law.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss.	The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					even if the cost, in terms of uncounted ballots, was regrettable.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	386 F.3d 815; 2004 U.S. App. LEXIS 28765	October 23, 2004	Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements.	On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p>			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.			
Hawkins v. Blunt	United States District Court for the Western District of Missouri	2004 U.S. Dist. LEXIS 21512	October 12, 2004	In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved	The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements.	No	N/A	No

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				for summary judgment.	The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot, the voter would first be directed to his proper polling place.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551	October 13, 2004	Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal	The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>legislation. Defendants filed a motion to transfer venue.</p>	<p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p>			

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Provisional Ballot Cases

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					governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872	October 19, 2004	Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a	The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p>	<p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p>			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first--time voters who registered by mail were consistent with federal and state law.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
James v. Bartlett	Supreme Court of North Carolina	359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146	February 4, 2005	Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed.	The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots to be counted in state and local elections. The candidates failure to challenge the counting of out-of-precinct provisional ballots before the election did not render their action untimely. Reversed and remanded.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	387 F.3d 565; 2004 U.S. App. LEXIS 22320	October 26, 2004	Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast	The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p>	<p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted. Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					legal votes. Affirmed in part and reversed in part.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					under § 1983 to raise the federal-law claims. Affirmed.			
Fla. Democratic Party v. Hood	United States District Court for the Northern District of Florida	342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720	October 21, 2004	Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings.	The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					was cast in the proper precinct under State law.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss.	The directive in question instructed election officials to issue provisional ballots to first--time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first--time voter could identify himself by providing his driver's license number or the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					even if the cost, in terms of uncounted ballots, was regrettable.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	386 F.3d 815; 2004 U.S. App. LEXIS 28765	October 23, 2004	Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements.	On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.			
Hawkins v. Blunt	United States District Court for the Western District of Missouri	2004 U.S. Dist. LEXIS 21512	October 12, 2004	In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved	The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements.	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				for summary judgment.	The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot, the voter would first be directed to his proper polling place.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551	October 13, 2004	Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal	The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>legislation. Defendants filed a motion to transfer venue.</p>	<p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872	October 19, 2004	Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a	The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p>	<p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first--time voters who registered by mail were consistent with federal and state law.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Spencer v. Blackwell	United States District Court for the Southern District of Ohio	347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062	November 1, 2004	Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the	The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				polls.	challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. The court enjoined all</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day.			
MARIAN SPENCER, et al., Petitioners v. CLARA PUGH, et al. (No. 04A360) SUMMIT COUNTY DEMOCRATIC CENTRAL and EXECUTIVE COMMITTEE, et al., Petitioners v. MATTHEW HEIDER, et al. (No. 04A364)	United States Supreme Court	125 S. Ct. 305; 160 L. Ed. 2d 213; 2004 U.S. LEXIS 7400	November 2, 2004	In two separate actions, plaintiffs sued defendant members of a political party, alleging that the members planned to mount indiscriminate challenges in polling places which would disrupt voting. Plaintiffs applied to	Plaintiffs contended that the members planned to send numerous challengers to polling places in predominantly African--American neighborhoods to challenge votes in an imminent national election, which would allegedly cause	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>vacate orders entered by the United States Court of Appeals for the Sixth Circuit which entered emergency stays of injunctions restricting the members' activities.</p>	<p>voter intimidation and inordinate delays in voting. A district court ordered challengers to stay out of polling places, and another district court ordered challengers to remain in the polling places only as witnesses, but the appellate court stayed the orders. The United States Supreme Court, acting through a single Circuit Justice, declined to reinstate the injunctions for</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prudential reasons, despite the few hours left until the upcoming election. While the allegations of abuse were serious, it was not possible to determine with any certainty the ultimate validity of the plaintiffs' claims or for the full Supreme Court to review the relevant submissions, and voting officials would be available to enable proper voting by qualified voters.			
Charles H. Wesley Educ.	United States	324 F. Supp. 2d	July 1, 2004	Plaintiffs, a voter, fraternity	The organization participated in	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Found., Inc. v. Cox	District Court for the Northern District of Georgia	1358; 2004 U.S. Dist. LEXIS 12120		members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter	numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Registration Act and U.S. Const. amends. I, XIV, and XV.	were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that:			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Injunction granted.</p>			
Jacksonville Coalition for Voter Prot. v. Hood	United States District Court for	351 F. Supp. 2d 1326; 2004 U.S.	October 25, 2004	Plaintiffs, voter protection coalition, union, and	The coalition, the union, and the voters based their claim on	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	the Middle District of Florida	Dist. LEXIS 26522		voters, filed an emergency motion for a preliminary injunction and argued that African Americans in the county had less opportunity than other members of the state's electorate to vote in the upcoming election, and that defendants, elections officials', implementation of early voting procedures violated the Voting Rights	the fact that the county had the largest percentage of African-- American registered voters of any major county in the state, and, yet, other similarly-sized counties with smaller African-- American registered voter percentages had more early voting sites. Based on that, they argued that African-- American voters in the county were disproportionately affected. The			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Act and their constitutional rights.	court found that while it may have been true that having to drive to an early voting site and having to wait in line may cause people to be inconvenienced, inconvenience did not result in a denial of meaningful access to the political process. Thus, the coalition, the union, and the voters had not established a likelihood of success on the merits of their claim that the county's implementation			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					of early voting procedures violated § 2 of the Voting Rights Act. Moreover, the coalition, the union, and the voters failed to establish a likelihood of success on the merits of their § 1983 Fourteenth and Fifteenth Amendment claims, which required a higher proof of discriminatory purpose and effect. Injunction denied.			
Taylor v. Howe	United States Court of Appeals	225 F.3d 993; 2000 U.S. App. LEXIS	August 31, 2000	Plaintiffs, African American voters, poll	The court of appeals affirmed--in--part, reversed--	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	for the Eighth Circuit	22241		watchers, and candidates appealed from a judgment of the United States District Court for the Eastern District of Arkansas in favor of defendants, elections commissioners and related individuals, on their § 1983 voting rights claims and contended the district court made erroneous findings of fact and law and failed to appreciate evidence of	in--part, and remanded the district court's judgment. The court found that the district court's finding of a lack of intentional discrimination was appropriate as to many defendants. However, as to some of the individual voters' claims for damages, the court held "a definite and firm conviction" that the district court's findings were mistaken. The court noted that the argument that a			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				discriminatory intent.	voter's name was misspelled in the voter register, with a single incorrect letter, was a flimsy pretext and, accordingly, held that the district court's finding that defendant poll workers did not racially discriminate in denying the vote to this plaintiff was clearly erroneous. Affirmed in part and reversed in part.			
Stewart v. Blackwell	United States District Court for the	356 F. Supp. 2d 791; 2004 U.S. Dist. LEXIS	December 14, 2004	Plaintiffs, including African--American voters, alleged	The primary thrust of the litigation was an attempt to federalize	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Northern District of Ohio	26897		that use of punch card voting and "central--count" optical scanning devices by defendants, the Ohio Secretary of State et al., violated their rights under the Due Process Clause, the Equal Protection Clause, and (African--American plaintiffs) their rights under § 2 of the Voting Rights Act.	elections by judicial rule or fiat via the invitation to the court to declare a certain voting technology unconstitutional and then fashion a remedy. The court declined the invitation. The determination of the applicable voting process had always been focused in the legislative branch of the government. While it was true that the percentage of residual or non-voted ballots in the 2000			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>presidential election ran slightly higher in counties using punch card technology, that fact standing alone was insufficient to declare the use of the system unconstitutional. Moreover, the highest frequency in Ohio of residual voting bore a direct relationship to economic and educational factors, negating the Voting Rights Act claim. The court further stated that local variety</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					in voting technology did not violate the Equal Protection Clause, even if the different technologies had different levels of effectiveness in recording voters' intentions, so long as there was some rational basis for the technology choice. It concluded that defendants' cost and security reasons for the use of punch card ballots were plausible.			
Taylor v. Currie	United States District	386 F. Supp. 2d 929; 2005	September 14, 2005	Plaintiff brought an action against	This action involved issues pertaining to	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Eastern District of Michigan	U.S. Dist. LEXIS 20257		defendants, including a city elections commission, alleging defects in a city council primary election pertaining to absentee balloting. The case was removed to federal court by defendants. Pending before the court was a motion to remand, filed by plaintiff.	absentee ballots. Plaintiff alleged that defendants were not complying with state laws requiring certain eligibility checks before issuing absentee ballots. The state court issued an injunction preventing defendants from mailing absentee ballots. Defendants removed the action to federal court and plaintiff sought a remand. Defendants argued that not mailing the absentee ballots			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>would violate the Voting Rights Act, because it would place a restriction only on the City of Detroit, which was predominately African--American. The court ordered the case remanded because it found no basis under 28 U.S.C.S. §§ 1441 or 1443 for federal jurisdiction. Defendants' mere reference to a federal law or federal right was not enough to confer subject matter</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>jurisdiction where the complaint sought to assert only rights arising under state statutes against state officials in relation to a state election. The court stated that it would not allow defendants to take haven in federal court under the guise of providing equal protection for the citizens of Detroit but with a goal of perpetuating their violation of a non-discriminatory state law.</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Motion to remand granted.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Weber v. Shelley	United States Court of Appeals for the Ninth Circuit	347 F.3d 1101; 2003 U.S. App. LEXIS 21979	October 28, 2003	Plaintiff voter brought an suit against defendants, the secretary of state and the county registrar of voters, claiming that the lack of a voter-verified paper trail in the county's newly installed touchscreen voting system violated her rights to equal protection and due process. The United States District Court for the Central District of California granted the	On review, the voter contended that use of paperless touch--screen voting systems was unconstitutional and that the trial court erred by ruling her expert testimony inadmissible. The trial court focused on whether the experts' declarations raised genuine issues of material fact about the relative accuracy of the voting systemat issue and	No	N/A	No

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				secretary and the registrar summary judgment. The voter appealed.	excluded references to news--paper articles and unidentified studies absent any indication that experts normally relied upon them. The appellate court found that the trial court's exclusions were not an abuse of discretion and agreed that the admissible opinions which were left did not tend to show that voters had a lesser chance of having their votes counted. It further found			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>that the use of touchscreen voting systems was not subject to strict scrutiny simply because this particular balloting system might make the possibility of some kinds of fraud more difficult to detect. California made a reasonable, politically neutral and non--discriminatory choice to certify touchscreen systems as an</p>			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					alternative to paper ballots, as did the county in deciding to use such a system. Nothing in the Constitution forbid this choice. The judgment was affirmed.			
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was	No	N/A	No

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>approval of the use of certain direct recording electronic (DRE) voting systems. One voter applied for a temporary restraining order, or, in the alternative, a preliminary injunction. of a preliminary injunction in a number of ways, including a four--part test that considers (1) likelihood of success on the merits; (2) the possibility of irreparable injury in the</p>	<p>not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be deprived of their fundamental right to vote. The Americans with Disabilities Act, did not require accommodation that would enable disabled persons to vote in a manner that was</p>			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>absence of an injunction; (3) a balancing of the harms; and (4) the public interest.</p>	<p>comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's</p>			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. Ninth Circuit's tests</p>			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					for a preliminary injunction, although phrased differently, require a court to inquire into whether there exists a likelihood of success on the merits, and the possibility of irreparable injury; a court is also required to balance the hardships.			
Fla. Democratic Party v. Hood	Court of Appeal of Florida, First District	884 So. 2d 1148; 2004 Fla. App. LEXIS 16077	October 28, 2004	Petitioner, the Florida Democratic Party, sought review of an emergency rule adopted by the Florida	The Party argued that: (1) the Florida Administrative Code, recast language from the earlier invalidated rule	No	N/A	No

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Department of State, contending that the findings of immediate danger, necessity, and procedural fairness on which the rule was based were insufficient under Florida law, which required a showing of such circumstances, and Florida case law. This matter followed.</p>	<p>prohibiting a manual recount of overvotes and undervotes cast on a touchscreen machine; (2) the rule did not call for the manual recount of votes to determine voter intent; and (3) the rule created voters who were entitled to manual recounts in close elections and those who were not. The appeals court disagreed. The Department was clearly concerned with the fact that if</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>no rule were in place, the same confusion and inconsistency in divining a voter's intent that attended the 2000 presidential election in Florida, and the same constitutional problems the United States Supreme Court addressed then, might recur in 2004. It was not the court's responsibility to decide the validity of the rule or whether other means were more appropriate.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>But, the following question was certified to the Supreme Court: Whether under Fla. Stat. ch. 120.54(4), the Department of State set forth sufficient justification for an emergency rule establishing standards for conducting manual recounts of overvotes and undervotes as applied to touchscreen voting systems? The petition was denied, but a question was</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					certified to the supreme court as a matter of great public importance.			
Wexler v. Lepore	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1097; 2004 U.S. Dist. LEXIS 21344	October 25, 2004	Plaintiffs, a congressman, state commissioners, and a registered voter, brought a § 1983 action against defendants, state officials, alleging that the manual recount procedures for the state's touchscreen paperless voting systems violated their rights under U.S. Const.	The officials claimed that the state had established an updated standard for manual recounts in counties using optical scan systems and touchscreen voting systems, therefore, alleviating equal protection concerns. The court held that the rules prescribing what	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				amends. V and XIV. A bench trial ensued.	constituted a clear indication on the ballot that the voter had made a definite choice, as well the rules prescribing additional recount procedures for each certified voting system promulgated pursuant to Florida law complied with equal protection requirements under U.S. Const. amends. V and XIV because the rules prescribed uniform,			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>nondifferential standards for what constituted a legal vote under each certified voting system, as well as procedures for conducting a manual recount of overvotes and undervotes in the entire geographic jurisdiction. The court further held that the ballot images printed during a manual recount pursuant to Florida Administrative Code did not violate Florida</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					law because the manual recount scheme properly reflected a voter's choice. Judgment was entered for the officials. The claims of the congressman, commissioners, and voter were denied.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Reitz v. Rendell	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21813	October 29, 2004	Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a voluntary agreement and submitted it to the court for approval.	The court issued an order to assure that the service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee ballots cast by service members and other	No	N/A	No

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UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against the Governor or the Secretary.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.			
United States v. Pennsylvania	United States District Court for the Middle district of Pennsylvania	2004 U.S. Dist. LEXIS 21167	October 20, 2004	Plaintiff United States sued defendant Commonwealth of Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who	The testimony of the two witnesses offered by the United States did not support its contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified	No	N/A	No

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UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so late in the election year.</p>	<p>that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support</p>			

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					<p>a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by</p>			

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					<p>undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. must consider the following four factors: (1) the likelihood that the applicant will prevail on the merits of the substantive claim; (2) the extent to which the moving party will be irreparably harmed in the absence of injunctive relief; (3) the extent to which the nonmoving party</p>			

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					will suffer irreparable harm if the court grants the requested injunctive relief; and (4) the public interest. District courts should only grant injunctive relief after consideration of each of these factors. Motion for injunctive relief denied.			
Bush v. Hillsborough County Canvassing Bd.	United States District Court for the Northern District of Florida	123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265		The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee	Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>state ballots and federal write--in ballots based on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p>	<p>state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee</p>			

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					<p>voter to sign an oath that the ballot was mailed from outside the United States and requiring the state election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and relief GRANTED in part and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign</p>			

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					postmark, or solely because there was no record of an application for a state absentee ballot.			
Harris v. Florida Elections Canvassing Comm'n	United States District Court for the Northern District of Florida	122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875	December 9, 2000	Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the ballots violated Florida election law.	In two separate cases, plaintiff electors originally sued defendant state elections canvassing commission and state officials in Florida state circuit court, challenging the counting of overseas absentee ballots received after 7 p.m. on election day. Defendant governor removed one case	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>to federal court. The second case was also removed. The court in the second case denied plaintiff's motion for remand and granted a motion to transfer the case to the first federal court under the related case doctrine. Plaintiffs claimed that the overseas ballots violated Florida election law. Defendants argued the deadline was not absolute. The court found Congress did not intend 3 U.S.C.S. § 1 to impose</p>			

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					irrational scheduling rules on state and local canvassing officials, and did not intend to disenfranchise overseas voters. The court held the state statute was required to yield to Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. Judgment entered for defendants			

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					because a Florida administrative rule requiring a 10--day extension in the receipt of overseas absentee ballots in federal elections was enacted to bring the state into compliance with a federally ordered mandate; plaintiffs were not entitled to relief under any provision of state or federal law.			
Romeu v. Cohen	United States District Court for the Southern District of New York	121 F. Supp. 2d 264; 2000 U.S. Dist. LEXIS 12842	September 7, 2000	Plaintiff territorial resident and plaintiff--intervenor territorial governor moved for summary judgment and defendant federal,	Plaintiff argued that the laws denied him the right to receive a state absentee ballot in violation of the right to vote, the right to travel, the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>state, and local officials moved to dismiss the complaint that alleged that the Voting Rights Amendments of 1970, the Uniform Overseas Citizens Absentee Voting Act, and New York election law were unconstitutional since they denied plaintiff's right to receive an absentee ballot for the upcoming presidential election.</p>	<p>Privileges and Immunities Clause, and the Equal Protection Clause. Plaintiff-intervenor territorial governor intervened on behalf of similarly situated Puerto Rican residents. Defendants' argued that: 1) plaintiff lacked standing; 2) a non-justiciable political question was raised; and 3) the laws were constitutional. The court held that: 1) plaintiff had standing because he made a substantial</p>			

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					<p>showing that application for the benefit was futile; 2) whether or not the statutes violated plaintiff's rights presented a legal, not political, question, and there was no lack of judicially discoverable and manageable standards for resolving the matter; and 3) the laws were constitutional and only a constitutional amendment or grant of statehood would enable plaintiff to vote in a presidential election. The</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court granted defendants' motion to dismiss because the laws that prohibited territorial residents from voting by state absentee ballot in presidential elections were constitutional.			
Romeu v. Cohen	United States Court of Appeals for the Second Circuit	265 F.3d 118; 2001 U.S. App. LEXIS 19876	September 6, 2001	Plaintiff territorial resident sued defendants, state and federal officials, alleging that the Uniformed and Overseas Citizens Absentee Voting Act unconstitutionally prevented the territorial resident from voting in his former state of	The territorial resident contended that the UOCAVA unconstitutionally distinguished between former state residents residing outside the United States, who were permitted to vote in their former states, and former state residents	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>residence. The resident appealed the judgment of the United States District Court for the Southern District of New York, which dismissed the complaint.</p>	<p>residing in a territory, who were not permitted to vote in their former states. The court of appeals first held that the UOCAVA did not violate the territorial resident's right to equal protection in view of the valid and not insubstantial considerations for the distinction. The territorial resident chose to reside in the territory and had the same voting rights as other territorial residents, even though such</p>			

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					<p>residency precluded voting for federal offices. Further, the resident had no constitutional right to vote in his former state after he terminated his residency in such state, and the consequences of the choice of residency did not constitute an unconstitutional interference with the right to travel. Finally, there was no denial of the privileges and immunities of state citizenship, since the territorial resident was treated</p>			

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					identically to other territorial residents. The judgment dismissing the territorial resident's complaint was affirmed.			
Igartua de la Rosa v. United States	United States District Court for the District of Puerto Rico	107 F. Supp. 2d 140; 2000 U.S. Dist. LEXIS 11146	July 19, 2000	Defendant United States moved to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote, as U.S. citizens residing in Puerto Rico, in the upcoming and all subsequent Presidential elections. Plaintiffs urged, among other claims, that their right to vote in	The court denied the motion of defendant United States to dismiss the action of plaintiffs, two groups of Puerto Ricans, seeking a declaratory judgment allowing them to vote in Presidential elections. One group always resided in Puerto Rico and the other became	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Presidential elections was guaranteed by the Constitution and the International Covenant on Civil and Political Rights.</p>	<p>ineligible to vote in Presidential elections upon taking up residence in Puerto Rico. Plaintiffs contended that the Constitution and the International Covenant on Civil and Political Rights, guaranteed their right to vote in Presidential elections and that the Uniformed and Overseas Citizens Absentee Voting Act, was unconstitutional in disallowing Puerto Rican citizens to vote</p>			

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					<p>by considering them to be within the United States. The court concluded that UOCAVA was constitutional under the rational basis test, and violation of the treaty did not give rise to privately enforceable rights. Nevertheless, the Constitution provided U.S. citizens residing in Puerto Rico the right to participate in Presidential elections. No constitutional amendment was needed. The</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>present political status of Puerto Rico was abhorrent to the Bill of Rights. The court denied defendant United States' motion to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote in Presidential elections as citizens of the United States and of Puerto Rico. The court held that the United States Constitution itself provided plaintiffs with the right to participate in</p>			

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					Presidential elections.			

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Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Powers v. Donahue	Supreme Court of New York, Appellate Division, First Department	276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644	December 5, 2000	Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names.	When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted.	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the</p>			

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					local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed.			
Goodwin v. St. Thomas--	Territorial Court of the	43 V.I. 89; 2000	December 13, 2000	Plaintiff political	Plaintiff alleged that defendants	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
St. John Bd. of Elections	Virgin Islands	V.I. LEXIS 15		candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results	counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to			

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				tabulated without such ballots.	establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot			

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					<p>envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.</p>			
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala. LEXIS	December 9, 2005	The circuit court	The voters and the incumbent all	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		214		<p>overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross-- appealed. In the meantime, the trial court stayed enforcement of its judgment pending</p>	<p>challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with</p>			

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				resolution of the appeal.	their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to			

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					count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed.			
Gross v. Albany County Bd. of Elections	Supreme Court of New York, Appellate Division, Third Department	10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y. App. Div. LEXIS	August 23, 2004	Appellant candidates appealed from a judgment entered by the supreme court, which partially	The candidates argued that the Board violated a federal court order regarding the election. The appellate court	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		10360		<p>granted the candidates' petition challenging the method used by respondent Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County Legislator, 26th and 29th Districts, in a special general election required by the federal courts.</p>	<p>held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to</p>			

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					<p>identify their physician on their applications. A ballot was properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was</p>			

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					properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.			
Erlandson v. Kiffmeyer	Supreme Court of Minnesota	659 N.W.2d 724; 2003 Minn. LEXIS 196	April 17, 2003	Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief	The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican Party. The instant court granted review.</p>	<p>nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were</p>			

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					<p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p>			

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					mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot.			
People v. Deganutti	Appellate Court of Illinois, First District, Third Division	348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill. App.	May 12, 2004	Defendant appealed from a judgment of the circuit court, which convicted	Defendant went to the voters' homes and obtained their signatures on absentee ballot	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 518		defendant on charges of unlawful observation of voting and on charges of absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters.	request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re--punch a number that had not			

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					<p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p>			

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					and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed.			
Jacobs v. Seminole County Canvassing Bd.	Supreme Court	773 So. 2d 519; 2000 Fla. LEXIS 2404	December 12, 2000	In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require	Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.	No	N/A	No

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				<p>immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in Seminole County in the 2000 presidential election.</p>	<p>Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the</p>			

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					<p>ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the</p>			

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					other party's forms. Affirmed.			
Gross v. Albany County Bd. of Elections	Court of Appeals of New York	3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412	October 14, 2004	Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters.	Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be	No	N/A	No

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					<p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p>			

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					<p>court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors." Affirmed.</p>			

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Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election	Supreme Court of Pennsylvania	577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431	March 8, 2004	A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain	The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and	No	N/A	No

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				candidates and voters.	that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non-disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third-person hand-delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in-person delivery			

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					<p>would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.</p>			
In re Canvass of	Commonwealth Court of	839 A.2d 451; 2003	December 22, 2003	The Allegheny County	On appeal, the issue was whether	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Absentee Ballots of November 4, 2003	Pennsylvania	Pa. Commw. LEXIS 963		Elections Board did not allow 74 challenged third--party hand--delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order.	non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory			

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					requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.			

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					<p>Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken.</p>			
United States v. Pennsylvania	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21167	October 20, 2004	Plaintiff United States sued defendant Commonwealth of	The testimony of the two witnesses offered by the United States did not support its	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so</p>	<p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p>			

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				late in the election year.	right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had			

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					adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied.			
Hoblock v. Albany County Bd. of Elections	United States District Court for the Northern District of New York	341 F. Supp. 2d 169; 2004 U.S. Dist. LEXIS 21326	October 25, 2004	Plaintiffs, candidates and voters, sued defendant, the Albany County, New York,	An election for members of the Albany County Legislature had been enjoined, and special	No	N/A	No

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				<p>Board of Elections, under § 1983, claiming that the Board violated plaintiffs' Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction.</p>	<p>primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots</p>			

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					<p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p>			

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					<p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p>			

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					Board from certifying winners of the election was granted.			
Griffin v. Roupas	United States Court of Appeals for the Seventh Circuit	385 F.3d 1128; 2004 U.S. App. LEXIS 21476	October 15, 2004	In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District	The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the	No	N/A	No

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				<p>Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim.</p>	<p>problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois</p>			

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					<p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p>			

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					applied to everyone. Affirmed.			
Reitz v. Rendell	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21813	October 29, 2004	Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a	The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee	No	N/A	No

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				voluntary agreement and submitted it to the court for approval.	ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against			

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					the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.			
Bush v. Hillsborough County Canvassing Bd.	United States District Court for the Northern District of Florida	123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265	December 8, 2000	The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based	Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed	No	N/A	No

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				<p>on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p>	<p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p>			

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					election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot			

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					<p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p>			
Kolb v.	Supreme Court	270	March 17,	Both petitioner	Both petitioner	No	N/A	No

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Casella	of New York, Appellate Division, Fourth Department	A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483	2000	and respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election.	and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter			

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					registration card signature----and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee			

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					ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.			
People v. Woods	Court of Appeals of Michigan	241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156	June 27, 2000	Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to	Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				pursue the interlocutory appeal, in a criminal action alleging violations of election laws.	fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary			

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					<p>elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to</p>			

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					violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense.			
Harris v. Florida Elections Canvassing Comm'n	United States District Court for the Northern District of Florida	122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875	December 9, 2000	Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the	The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did	No	N/A	No

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				ballots violated Florida law.	not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982.			
Weldon v. Berks County Dep't of Election Servs.	United States District Court for the Eastern District of Pennsylvania	2004 U.S. Dist. LEXIS 21948	November 1, 2004	Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary	The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p>	<p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p>			

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					<p>county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8.</p> <p>OVERVIEW: The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were</p>			

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					<p>submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions</p>			

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					concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction.			
Qualkinbush v. Skubisz	Court of Appeals of Illinois, First District	822 N.E.2d 38; 2004 Ill. App. LEXIS 1546	December 28, 2004	Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court	Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				declared petitioner mayor.	violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that			

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					<p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters.</p> <p>Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots.</p> <p>The Election Code did not violate equal protection principles, as the burden placed</p>			

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					upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.			
Panio v. Sunderland	Supreme Court of New York, Appellate Division, Second Department	14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433	January 25, 2005	In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of	The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by:	No	N/A	No

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				<p>the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent Democratic candidate cross-- appealed.</p>	<p>(1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count</p>			

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					<p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p>			

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					equivalent of an application for a special ballot. Order modified and judgment affirmed.			
Pierce v. Allegheny County Bd. of Elections	United States District Court for the Western District of Pennsylvania	324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569	November 13, 2003	Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third--party absentee ballot delivery, require the set aside of all absentee third--party delivered ballots in connection with the November 2003 election, prohibit those	Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear	No	N/A	No

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				<p>ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction.</p>	<p>regarding whether the absentee ballot provision requiring hand--delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies.</p>			

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					<p>However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state</p>			

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					court by virtue of the state court's concurrent jurisdiction.			
Friedman v. Snipes	United States District Court for the Southern District of Florida	345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739	November 9, 2004	Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters	The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of §	No	N/A	No

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Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction.</p>	<p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p>			

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Absentee Balloting Cases

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					<p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p>			

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					Preliminary injunction denied.			

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Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed.	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p>			

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					minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights	No	N/A	No

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Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>violations of the Voting Rights Act. The parties filed cross-motions for summary judgment.</p>	<p>schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of</p>			

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					<p>minorities; as a result, minorities were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p>			

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					constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.			
Farrakhan v. Washington	United States Court of Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p>	<p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p>			

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					less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim.			
Muntaqim v. Coombe	United States Court of Appeals for the Second Circuit	366 F.3d 102; 2004 U.S. App. LEXIS 8077	April 23, 2004	Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation	At issue was whether the VRA could be applied to N.Y. Elec. Law§ 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				of § 2 of the Voting Rights Act of 1965.	New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in			

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					<p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p>			

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					district court's judgment was affirmed.			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	353 F.3d 1287; 2003 U.S. App. LEXIS 25859	December 19, 2003	Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.	The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p>			

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					violation of federal voting laws and remanded the matter to the district court for further proceedings.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.			
Johnson v. Governor of	United States Court of	405 F.3d 1214;	April 12, 2005	Plaintiff individuals sued	The individuals argued that the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Fla.	Appeals for the Eleventh Circuit	2005 U.S. App. LEXIS 5945		defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.	racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial			

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					<p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p>			

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					permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw.	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief	Petitioner convicted felons were presently or had formerly been confined in state	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 534		as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights.	prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners'			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.			
Rosello v. Calderon	United States District Court for the District of Puerto Rico	2004 U.S. Dist. LEXIS 27216	November 30, 2004	Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the	The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>invalidity of absentee and split ballots in a gubernatorial election.</p>	<p>same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal constitutions. The</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law pursuant to federal</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.			
Woodruff v. Wyoming	United States Court of Appeals for the Tenth Circuit	49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060	October 7, 2002	Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10-106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon which relief could	The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing fee or filed a	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				be granted and as frivolous.	motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who heard their cases.			

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					The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed.			
N.J. State Conf.--NAACP v. Harvey	Superior Court of New Jersey, Appellate Division	381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316	November 2, 2005	The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4-1(8) on the ground that it denied	The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey discriminated	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>African-- Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.</p>	<p>against African- Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting. Moreover, those</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed.			
King v. City of Boston	United States District Court for the District of Massachusetts	2004 U.S. Dist. LEXIS 8421	May 13, 2004	Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which	The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>excluded incarcerated felons from voting while they were imprisoned.</p>	<p>not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.			
Southwest Voter Registration Educ. Project v. Shelley	United States District Court for the Central District of California	278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413	August 15, 2003	Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be conducted without use of punch--card	Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch--card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the votes on the basis of race, in violation	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				machines.	of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if plaintiffs could show disparate			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with plaintiffs' ex parte application for</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					temporary restraining order) was denied.			
Igartua--de la Rosa v. United States	United States Court of Appeals for the First Circuit	417 F.3d 145; 2005 U.S. App. LEXIS 15944	August 3, 2005	Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States.	The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were not, but were voting for electors.	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.</p>			

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Rogelio Mejorada-Lopez	Alaska	05-CR-074	December 5, 2005	Mejorada-Lopez, a Mexican citizen, completed several voter registration applications to register to vote in Alaska and voted in the 2000, 2002, and 2004 general elections. He was charged with three counts of voting by a non-citizen in violation of 18 U.S.C. section 611 and pled guilty. Mejorada-Lopez was sentenced to probation for	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				one year.			
United States v. Shah	Colorado	1:04-CR-00458	March 1, 2005	Shah was indicted on two counts of providing false information concerning United States citizenship in order to register to vote in violation of 18 U.S.C. section 911 and 1015(f). Shah was convicted on both counts.	No	N/A	No
United States v. Mohsin Ali	Northern Florida	4:05-CR-47	January 17, 2006	A misdemeanor was filed against Ali charging him with voting by a non-citizen of 18 U.S.C. section 611. Trial was set for January 17, 2006	No	N/A	Yes-need information on the outcome of the trial.

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Chaudhary	Northern Florida	4:04-CR-00059	May 18, 2005	Chaudhary was indicted for misuse of a social security number in violation of 42 U.S.C. section 408 and for making a false claim of United States citizenship on a 2002 driver's license application in violation of 18 U.S.C. section 911. A superceding indictment was returned, charging Chaudhary with falsely claiming United States citizenship on a driver's license	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				application and on the accompanying voter registration application. He was convicted of the false citizenship claim on his voter registration application.			
United States v. Velasquez	Southern Florida	1:03-CR-20233	September 9, 2003	Velasquez, a former 1996 and 1998 candidate for the Florida legislature, was indicted on charges of misrepresenting United States citizenship in connection with voting and for making false statements	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				to the Immigration and Naturalization Service, in violation of 18 U.S.C. section 911, 1015(f) and 1001. Velasquez was convicted on two counts of making false statements on his naturalization application to the INS concerning his voting history.			
United States v. McKenzie; United States v. Francois; United States v. Exavier; United States v. Lloyd Palmer; United	Southern Florida	0:04-CR-60160; 1:04-CR-20488; 0:04-CR-60161; 0:04-CR-60159;	July 15, 2004	Fifteen non-citizens were charged with voting in various elections beginning in 1998 in	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
States v. Velrine Palmer; United states v. Shivdayal; United States v. Rickman; United States v. Knight; United States v. Sweeting; United States v. Lubin; United States v. Bennett; United States v. O'Neil; United States v. Torres-Perez; United States v. Phillip; United States v. Bain Knight		0:04-CR-60162; 0:04-CR-60164; 1:04-CR-20491; 1:04-CR-20490; 1:04-CR-20489; 0:04-CR-60163; 1:04-CR-14048; 0:04-CR-60165; 2:04-CR-14046; 9:04-CR-80103; 2:04-CR-14047		violation of 18 U.S.C. section 611. Four of the defendants were also charged with making false citizenship claims in violation of 18 U.S.C. sections 911 or 1015(f). Ten defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government.			
United States v. Brooks	Southern Illinois	3:03-CR-30201	February 12, 2004	East St. Louis election official Leander Brooks was indicted for	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				submitting fraudulent ballots in the 2002 general election in violation of 42 U.S.C. section 1973i(c), 1973i(e), 1973gg-10(2)(B), and 18 U.S.C. sections 241 and 371. Brooks pled guilty to all charges.			
United States v. Scott; United States v. Nichols; United States v. Terrance Stith; United States v. Sandra Stith; United States v. Powell, et al.	Southern Illinois	3:05-CR-30040; 3:05-CR-30041; 3:05-CR-30042; 3:05-CR-30043; 3:05-CR-30044	June 29, 2005	Four Democrat precinct committeemen in East St. Louis were charged with vote buying on the 2004 general election in violation of 42 U.S.C.	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				section 1973i(c). All four pled guilty. Also indicted were four additional Democrat committeemen, Charles Powell, Jr., Jesse Lewis, Sheila Thomas, Kelvin Ellis, and one precinct worker, Yvette Johnson, on conspiracy and vote buying charges in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). All five defendants were convicted. Kelvin Ellis			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>also pled guilty to one count of 18 U.S.C. section 1512(c)(2) relative to a scheme to kill one of the trial witnesses and two counts of 18 U.S.C. section 1503 relative to directing two other witnesses to refuse to testify before the grand jury.</p>			
United States v. McIntosh	Kansas	2:04-CR-20142	December 20, 2004	<p>A felony information was filed against lawyer Leslie McIntosh for voting in both Wyandotte County, Kansas and Jackson</p>	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				County, Missouri, in the general elections of 2000 and 2002 in violation of 42 U.S.C. section 1973i(e). A superseding misdemeanor information was filed, charging McIntosh with causing the deprivation of constitutional rights in violation of 18 U.S.C. section 242, to which the defendant pled guilty.			
United States v. Conley; United States v. Slone; United States v.	Eastern Kentucky	7:03-CR-00013; 7:03-CR-00014;	March 28, 2003 and April 24, 2003	Ten people were indicted on vote buying charges in	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Madden; United States v. Slone et al.; United States v. Calhoun; United States v. Johnson; United States v. Newsome, et al.		7:03-CR-00015; 7:03-CR-00016; 7:03-CR-00017; 7:03-CR-00018; 7:03-CR-00019		connection with the 1998 primary election in Knott County, Kentucky, in violation of 42 U.S.C. section 1973i(c). Five of the defendants pled guilty, two were convicted, and three were acquitted.			
United States v. Hays, et al.	Eastern Kentucky	7:03-CR-00011	March 7, 2003	Ten defendants were indicted for conspiracy and vote buying for a local judge in Pike County, Kentucky, in the 2002 general election, in violation of 42 U.S.C. section	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				1973i(c) and 18 U.S.C. section 371. Five defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government.			
United States v. Turner, et al.	Eastern Kentucky	3:05-CR-00002	May 5, 2005	Three defendants were indicted for vote buying and mail fraud in connection with the 2000 elections in Knott, Letcher, Floyd, and Breathitt Counties, Kentucky, in violation of 42	No	N/A	Yes-need update on case status.

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				U.S.C. section 1973i(c) and 18 U.S.C. section 341.			
United States v. Braud	Middle Louisiana	3:03-CR-00019	May 2, 2003	Tyrell Mathews Braud was indicted on three counts of making false declarations to a grand jury in connection with his 2002 fabrication of eleven voter registration applications, in violation of 18 U.S.C. section 1623. Braud pled guilty on all counts.	No	N/A	No
United States v. Thibodeaux	Western Louisiana	6:03-CR-60055	April 12, 2005	St. Martinsville City Councilwoman Pamela C. Thibodeaux was indicted on	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				two counts of conspiring to submit false voter registration information, in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). She pled guilty to both charges.			
United States v. Scherzer; United States v. Goodrich; United States v. Jones; United States v. Martin	Western Missouri	4:04-CR-00401; 4:04-CR-00402; 4:05-CR-00257; 4:05-CR-00258	January 7, 2005; March 28, 2005; September 8, 2005; October 13, 2005	Two misdemeanor informations were filed charging Lorraine Goodrich and James Scherzer, Kansas residents who voted in the 2000 and 2002 general elections on	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>both Johnson County, Kansas and in Kansas City, Missouri. The informations charged deprivation of a constitutional right by causing spurious ballots, in violation of 18 U.S.C. sections 242 and 2. Both pled guilty. Additionally, similar misdemeanor informations were filed against Tammy J. Martin, who voted in both Independence and Kansas City, Missouri</p>			

**EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting**

Deliberative Process
Privilege

	North Carolina	24-Oct-04	2000 and 2002	The Observer found up to 180 people who were listed as having voted in both Carolinas in either the 2000 or 2002 elections. Reporters found no one who admitted to double voting and discovered plausible explanations for many of the duplications. In one case, an Army captain in North Carolina shared the same name as his father in South Carolina. The father was likely mistakenly recorded under his son's name when he cast his ballot.	AP				
Jones	North Carolina	30-Oct-04	primary	Four men were charged with voting by absentee and on election day. Three denied the allegations or said they misunderstood the process.	AP				
Gaston	North Carolina	16-Dec-04	presidential	There are differences in most precincts between the number of ballots cast and the number of people recorded as voting. State investigators have concluded there is no way to rule out double-voting or missing votes because poll workers cannot explain the discrepancies.	Charlotte Observer				
	Ohio	2-Nov-04	presidential	Republican attorney cites a Plain Dealer report saying more than 27,000 people are registered to vote in both Ohio and Florida and that 100 people cast votes in both places four years ago. A Dispatch investigation of the allegations found little proof of duplicate voting after comparing the Ohio and Florida state databases and conducting further research. After culling the list through those methods, the Dispatch interviewed the people left in question. This failed to turn up anyone who had ever voted twice. Many had never been to Florida; some had never lived in Ohio.	Columbus Dispatch				
Summit	Ohio	8-Dec-04	local	The Director of the Board of Elections says the number of people under investigation for voting twice has decreased from 19 to 10. The board already determined that there were legitimate explanations for about half of the votes. In one case it appeared a man voted absentee and at the polling place but it turned out the absentee ballot had been cast by his son who has the same name.	Akron Beacon Journal				
London	Ohio	9-Dec-04	presidential	A couple who admitted voting twice were not indicted -- they voted by absentee ballot and then voted in person because they thought their absentee ballots had been lost	AP				
Logan	Oklahoma	24-Feb-01	primary	A man is charged with voting twice, once by absentee and once on election day. Although election board officials said they haven't seen a case like this in twenty years, they won't dismiss the charge.	Daily Oklahoman				
	Oregon	11-Apr-02	2000 general	The Secretary of State has referred five cases of possible double voting to the Attorney General (Oregon votes entirely by mail)	AP				
	Oregon	16-May-04	2000	Republicans claimed 1,200 Oregonians had registered in two counties and voted twice. But a state Elections Division investigation found that just a handful of voters were registered to vote in two counties and one had cast more than one ballot.	AP				

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**EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting**

	Oregon	1-Nov-04	presidential	The state Republican Chair claims in a news conference that he has uncovered six cases of people voting twice. The elections division immediately showed that five of the voters had only voted once, and the sixth case had immediately been caught by election workers.	The Oregonian			
Pawtucket	Rhode Island	14-Jan-03	General Assembly	The Pawtucket Board of Canvassers determined there was no truth to the allegation that Louis C. Yip, owner of the China Inn restaurant and a well-known developer, had shepherded the same couple to two different polling places, getting them to vote twice. City Registrar of Voters Dawn M. McCormick said that when voting records were checked, it turned out that the couple that Yip was accused of getting to vote at Towers East and Kennedy Housing was actually two different couples, both elderly and Chinese.	Providence Journal Bulletin			
Hamilton County	Tennessee	19-Dec-02	county commission	The county election commissioner said she believed people were using other names to vote and that addresses were changed fraudulently. Voters sign fail-safe affidavits when they change their addresses and their voting records have not yet been updated. Oaths of identity are signed when voters have no other form of identification. The commissioner said she questioned the validity of 11 oaths of identity and 68 fail-safe affidavits in the District 4 election.	Chattanooga Times Free Press			
	Tennessee	14-Dec-05	state senate	A second dead voter cast a ballot in the September special election held to fill the seat vacated by former state senator John Ford. Like a similar case documented earlier this week, this one involves an elderly voter who died weeks before the Sept. 15 election, an investigation by The Commercial Appeal found. Both of the suspect votes occurred in Precinct 27-1, in the heart of heavily Democratic North Memphis. By law, health officials report deaths once a month to the state Election Commission, which then purges the dead from voter registration rolls. In that window of time - a month or so before the election - there's a good chance dead voters will remain on the rolls on Election Day.	Commercial Appeal			
Houston	Texas	25-Nov-04	state legislature	State legislator who lost by 32 votes alleges 32 people voted twice and 101 residents from other districts cast ballots	Austin American Statesemen			
San Juan	Texas	12-May-05	city	The county is investigating three voters suspected of voting early and on election day	The Monitor			
King	Washington	22-Jun-05	gubernatorial	criminal charges filed against six voters for allegedly casting more than one ballot under a variety of circumstances: two for casting ballots in the names of recently deceased spouses; mother and daughter charged with casting a ballot in the name of recently deceased mother's dead husband; one for casting a ballot in the name of someone who had lived at the same address and died; one using someone else's name	Seattle Times			

EAC Voting Fraud-Voter Intimidation Preliminary Research

Nexis Articles - 'Dead' Voters and Multiple Voting

King	Washington	13-Oct-05	gubernatorial	Republican officials release the names of 16 people they say voted twice. One person is found to be two people with the same name but different birthdates. Two names were referred to the prosecutors office, files were charged against one.	Seattle Times				
King	Washington	14-Oct-05	gubernatorial and local primary	Woman on Republican list under investigation for double voting	Seattle Times				
Appleton	Wisconsin	12-Jan-05	nonpartisan election	student who voted by absentee ballot and in person at college sentenced to probation	Post Crescent				
Milwaukee	Wisconsin	22-Aug-05	presidential	GOP claims there were nine cases where people voted in Milwaukee and another city. US Attorney says he found no fraud, but rather clerical errors.	Journal Sentinel				
Milwaukee	Wisconsin	21-Sep-05	presidential	Man charged with voting twice said he filled out two on-site registration cards by mistake but voted only once	Journal Sentinel				
Milwaukee	Wisconsin	5-Dec-05	presidential	Four people charged with double voting; none convicted	Milwaukee Journal Sentinel				
Laramie	Wyoming	2-Nov-04		Laramie County Clerks says there has never been any intentional double registration or double voting					
national		23-Oct-02	presidential	RNC compiles a national database of 3,273 people who voted twice in 2000. In North Carolina, the first name on the list was the chair of the Assembly's election law committee, and the California Secretary of State says they will be able to refute the claims.	USA Today				

013211

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting

Two people are charged	Kansas City Star (January 8, 2005)	

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting

The Board of Elections reviewed all of the allegations of double voting and found that of 18 cases, 11 did not vote twice and seven did but did not intend to. All of the double votes were caught by the board and not counted twice. The board forwarded only one case of alleged double voting to the sheriff for further investigation.	2/24/2005, Akron Beacon	

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting

Most of the allegations seem to be cases of innocent mistakes that may have been technically illegal but not fraud	Houston Chronicle (January 16, 2005)	
See Washington summary		

City/County	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Source 1	Source 2	Source 3
Jefferson County	Alabama	10-Jan-06	sheriff	Former sheriff and an attorney said in a federal criminal trial that they did not conspire to illegally run criminal history checks on absentee voters for the sheriff's election. Prosecutors say he started doing the check after he lost the election, while the sheriff says he did it to ferret out voter fraud	Birmingham News			
San Francisco	California	28-Nov-01	municipal	The Coast Guard found the lids to eight absentee ballot boxes floating in the bay, raising suspicions of tampering.	San Francisco Chronicle			
Compton	California	November 15, 2001; /11/16/2001	mayoral	Mayor Bradley accuses opponent of stuffing boxes with counterfeit ballots and having noncitizens vote	LA Times			
Broward	Florida	27-Jan-03	ohi	The lawyer for a board of elections employee said she discovered more than 500 unopened absentee ballots in the office mailroom two days after the election. According to the story she laid out to prosecutors, she notified her supervisor and was told there had been a mix-up and that the votes needed to disappear.	Brandenton Herald			
Detroit	Michigan	12-Nov-05	mayoral	Nearly 3000 votes were lost for two days as some were taken home by poll workers, others misplaced. Vote totals failed to add up correctly when the votes were restored.	Detroit Free Press			
Detroit	Michigan	26-Nov-05	mayoral	Detroit officials lost track of ballots in nine precincts and did not count them until two days after the polls closed; a poll worker took home two computer data packs containing ballot information and did not return them until the next day, leading to tampering allegations. Judge overseeing the recount orders more security for the ballots	Detroit Free Press			
Middlesex County	New Jersey	19-Jun-03	assembly primary	Assemblywoman Friscia's suit alleges that election workers told voters who to vote for; allowed two or three people to enter voting booths at the same time; permitted people to vote even though their home addresses and signatures did not match the elections register; allowed registered Republicans to vote in a Democratic primary; provided faulty voting machines; paid people to vote for Vas; allowed non-citizens to vote; refused to accept absentee ballots, and closed Friscia's own polling station in Woodbridge.	Home News Tribune			
Atlantic City	New Jersey	11-Nov-05	mayoral and city council	city council member accused of filing absentee ballot applications for 10 people without their authorization. The Attorney General charges councilman with 10 counts of tampering with public records and one count of hindering or preventing voting	AP			
Cleveland	Ohio	20-Jun-05	presidential	A Cleveland elections board employee is charged with changing the votes on ballots completed by five nursing home residents in favor of Bush	Yahoo News			

Hamilton County	Tennessee	18-Jan-03	district primary	The Tennessee Bureau of Investigation searched the home of former Hamilton County Election Commission employee Rita Jones on Friday and seized an undisclosed number of documents. Ms. Jones, a 14-year employee of the Election Commission, was fired two days after the Nov. 5 general election when officials discovered a box of 189 ballots had not been counted on Election Day.	Chattanooga Times Free Press			
San Antonio	Texas	10-Dec-02	unclear	The county election administrator found that ballot counters switched ballots from Republican to Democrat.	San Antonio Express News			
Alamo	Texas	15-Dec-03	county commission	A supporter of one of the candidates alleges that he saw the mayor in the city secretary's office going over a list of residents that showed who had voted and who had not and that there were open mail-in ballots in front of them.	The Monitor			
Ector County	Texas	15-Dec-04	county commission	On Election Day, Republican David Dunn had one more vote than his opponent for an Ector County commission seat. After a recount, he lost by a vote. He filed a lawsuit Tuesday accusing opponent Barbara Graff and elections administrator Sharon Wilson of election fraud. He accused Graff of ballot tampering during the recount, claiming she or her supporters doctored tally sheets. Wilson mishandled the recount, tossing out two duplicate ballots for Dunn, according to the suit.	AP			
Forney	Texas	13-Dec-05	mayoral	A judge found that votes cast by several people, including City Council member Andy Parker, could not be found in the ballot box. Mr. Parker testified during the seven-day trial that he had used ballot No. 331, but the No. 331 in the box did not match the way he voted. In all, 165 people testified that they had voted early for Mr. Wilson, while just 152 early votes were counted for him - something Judge Kupper called an "irreconcilable discrepancy." The Sheriff's Department is investigating.	Dallas Morning News			
Salt Lake	Utah	20-Nov-02	County Council	County clerk candidate writes a letter to the Attorney General alleging altering of vote counts.	Salt Lake Tribune			
King	Washington	26-May-05	gubernatorial	An election administrator admitted she falsified a report to make it appear that all absentee ballots were accounted for. It later proved inaccurate when workers discovered 95 unopened, uncounted absentee ballots in a warehouse. Republicans say of the 96 ballots, 47 came from Rossi districts and 28 Gregoire. Gregoire won four of the five King County precincts that recorded more votes than voters. Rossi won four of the six King County precincts that recorded more voters than votes. Republicans claim this proves ballot boxes were stuffed in precincts that favored Gregoire and ballots vanished in precincts favoring Rossi.	News Tribune			

	Washington	30-May-05	gubernatorial	Republican attorneys allege King County election officials committed fraud by allowing illegal ballots in Democratic districts, ballot box stuffing and thefts of votes from the Republican candidate	The Olympian			
King	Washington		gubernatorial	GOP lawyer contends claim that the Democrats rigged the election by stuffing ballot boxes in the Democrat's two strongest precincts and by "losing" votes in two of the Republican's strongest precincts.	AP			

Los Angeles	California	7-Feb-03	neighborhood council	In the 2002 election two candidates had to be physically removed from the polling place, one for allegedly attempting to steal ballots. Charges of fraud and improprieties included photocopying ballots and stuffing ballot boxes. 135 more ballots than stakeholders were cast. After investigating, the city found no cause to dismiss the election and the League of Women Voters did not find any stuffing of the ballot boxes.	LA Weekly			
Durham	North Carolina	29-Mar-04	city council	poll worker adds ballots -- state board investigates but does not recommend criminal charges, instead recommending that the poll judges in that precinct step down	Herald Sun			
Gaston	North Carolina	16-Dec-04	presidential	There are differences in most precincts between the number of ballots cast and the number of people recorded as voting. State investigators have concluded there is no way to rule out double voting or missing votes because poll workers cannot explain the discrepancies. More than 13,000 votes were omitted from the county's unofficial results, including 1,200 votes from a Dallas precinct and about 12,000 early votes.	Charlotte Observer			

Resolution of Incident/allegation	Source of Resolution 1	Source of Resolution 2

013229

See Washington summary -- judge eventually found no fraud		

013235

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Intentional Felon Voting

City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Source1	Source 2	Source 3
Phillips County	Arkansas	2-Nov-02		The state Republican Party alleges five convicted felons voted, four of them in early voting	Arkansas Democrat-Gazette			
Sacramento	California	12-Sep-04	gubernatorial	For the first time since 1994, a man was charged with three counts of registering to vote while on parole and a fourth count of voting in the recall election.	Sacramento Bee			
	Colorado	25-Mar-05		In a survey of counties, 13 counties had referred 69 cases of possible felon voting to county attorneys. Denver County referred 52 cases of felon voting.	Denver Post			
	Florida	29-Oct-04	presidential	Florida's Republican Party says it has a list of 925 felons who have voted illegally or are planning to. The information could be used to challenge voters. The GOP found the allegedly illegal voters by starting with the same flawed set of names the state compiled in order to purge the rolls -- that list was scrapped when its inaccuracies were exposed. Democrats and civil rights groups suggested that Republicans wanted to use the list to intimidate black Democrats from going to the polls. The party took the initial state list of voters and compared it to the Florida Parole Commission names of felons rights who had been restored	Miami Herald			
Okaloosa	Florida	19-Oct-05		Man is accused of registering to vote in Okaloosa County in 1999 and casting a ballot in November 2002, even though he had been convicted of a felony offense of selling illegal drugs in Colorado in 1980, said Michele Nicholson, spokeswoman for the Okaloosa County sheriff's department. It is illegal for felons to vote in Florida unless their rights have been restored	Miami Herald			
Port Deposit	Maryland	8-Jun-03	mayor	Losing candidate alleges people convicted of crimes were allowed to vote. The chief election official of the town dismissed the allegations.	Baltimore Sun			

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Intentional Felon Voting

	Oklahoma	22-May-05	presidential	<p>A death row inmate and a child pornographer are among about 2,500 felons who remained on Oklahoma voting rolls after their convictions, The Oklahoman re-ported on Sunday.</p> <p>Records show some felons have voted, even though it's illegal while they're serving their sentences.</p> <p>"It's a huge problem," said state Rep. Mike Reynolds, who estimates as many as 16,000 felons are on voting rolls.</p> <p>About 1,100 may have voted in last year's general election. An exact count is difficult - in part because voters sometimes sign the wrong lines in poll books. Most significantly, the Oklahoma State Election Board has ignored the notices from U.S. prosecutors in Oklahoma and other states. Thousands are filed away in a back room. The law is unclear whether voting rights can be stripped after a guilty plea or only after sentencing. Some convicts are unsure about their voting status, and judges rarely explain it to them at sentencing.</p>	AP			
Davidson	Tennessee	12-Jan-05	presidential	<p>31 provisional voters were found to be felons whose voting rights had not been restored. The county election commission is debating action.</p>	Nashville City Paper			
Falfurrias	Texas	11-Sep-04	city	<p>Three indicted on illegal voting charges were ineligible to vote because they were convicted felons who lost voting privileges. One said she has been on probation for two years, and said she did not know that she was ineligible to vote because officials in the local voter registration office approved a replacement voter registration card before the city election.</p>	Corpus Christi Caller Times			
Norfolk	Virginia	14-Jan-04	unclear	<p>Man convicted in 1986 for larceny by check votes after being notified he had been taken off the voter rules. He entered a plea of illegal voting; State Attorney General says he has never prosecuted or seen such a case during his five years on the election board</p>	Hampton Roads News			
King	Washington	29-Apr-05	gubernatorial	<p>In its case to overturn the election, Republicans allege 736 King County felons illegally cast ballots, and another 220 illegal felon votes were cast elsewhere. Knowingly casting an illegal vote is a crime, but several felon votes said they were unaware they could not vote.</p>	Seattle Post-Intelligencer			
Milwaukee	Wisconsin	10-May-05	presidential	<p>investigators say they have evidence of 200 felons voting illegally</p>	Milwaukee Journal Sentinel			
Hanna	Wyoming	27-Apr-01	mayor	<p>State Division of Criminal Investigation says convicted felons allegedly voted</p>	AP			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - Intentional Felon Voting

Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Intentional Felon Voting

See summary of Washington May 5, 2005: Officials say charges will be filed, although officials said these cases are hard to prosecute because it must be established that the felon knew he could not vote -- see complete summary of Milwaukee; December 5, 2005: federal prosecutors charge 10 felons with voting illegally -- four were convicted, one was acquitted and five cases are still pending; the County DA charged two with felon voting -- still pending. See Milwaukee summary.	Milwaukee Journal Sentinel	Milwaukee Journal Sentinel

013243

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Intimidation and Suppression

City / County	State	Date	Type of Election	Alleged instance of fraud:	Original Source	Source 1	Source 2	Source 3
Bayou La Batre	Alabama	29-Aug-04	city council	About 60 challenged ballots in a Bayou La Batre City Council contest have stirred discrimination concerns because they were all demanded from Asian-American voters. Fred Marceaux of Coden, an advocate for the Asian community, called the challenged ballots "scare tactics." By all accounts, the voters were challenged to their faces as they walked into the polling place at the Bayou La Batre Community Center. Being publicly confronted on their first trip to the voting booth visibly up-set many of those who were challenged. Until this year, Asians here have seemed reluctant to step into local politics, preferring to live as a self-contained community for the most part.	AP			
	Arizona	1-Oct-04	presidential	A pollworker says that during the primary two men came in and said they were checking the polls to see if illegal aliens were voting. They said the name of their organization was Truth in Action. A voting rights advocate says the group was visiting many poll sites. The editor of the organization's website says he visited the polls wearing a black t-shirt with "US Constitutional Enforcement" on the back and the image of a badge on the front. He carried tools, a camera and a video recorder to "film all the conversations I had." He said that for the general election, if he sees "a busload of Hispanic individuals who didn't speak English and who voted," he plans to follow that bus to make sure they aren't voting more than once.	The Progressive			
	Arizona	6-Nov-05		In Maricopa County, home to Phoenix, more than 10,000 people trying to register have been rejected for being unable to prove their citizenship. Yvonne Reed, a spokesman for the recorder's office, said Friday that most are probably U.S. citizens whose married names differ from the ones on their birth certificates or who have lost documentation. Reed said she hopes the number of rejected voters shrinks as election officials explain the new requirements. But, she said, "there will be an amount of people who we will not be able to get on the rolls because of not being able to find the right documents or just losing interest." In Pima County, home to Tucson, 60 percent of those who tried to register initially could not. Chris Roads, the elections chief there, said that all appeared to be U.S. citizens, but many had moved to Arizona recently and couldn't access their birth certificates or passports. Many of those prospective voters have since been able to register, but Roads said about 1,000 citizens are still unable to vote in this week's election because of Proposition 200 requirements.	Los Angeles Times			
	Arkansas	31-Oct-02		State Democratic Party Chair accuses a Republican poll worker of focusing only on black and elderly voters during his challenges.	Arkansas Democrat-Gazette			
	Arkansas	6-Nov-02		In Arkansas, where voters were allowed to cast their ballots up to two weeks early to lessen the pressure on election day, there were allegations of intimidation in the early voting. Democrats claimed that black voters were photographed as they arrived at polling booths and had their identities subjected to disproportionate scrutiny.	The Guardian			

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Pine Bluff	Arkansas	30-Dec-02		Democrats accused Republican poll watchers of driving away voters in predominantly black precincts by taking photos of them and demanding identification during early voting	The American Prospect			
	Arkansas	17-Nov-04	presidential	DNC Chair says black voters in Arkansas were harassed during early voting	Ethnic News Watch			
Compton	California	14-Nov-01	mayoral	The ousted mayor's attorney, in a legal challenge to the election, said he intends to show that Perrodin's supporters pulled guns on voters at precincts	AP			
South Gate	California	28-Jan-03	treasurer and city council recall	The anti-recall camp accuses police officers of harassment and of "staring down" residents.	Los Angeles Times			
North County	California	6-Nov-03	local	Latino community organizer tells city council panel that Latinos have experienced poll workers who intimidate Latinos by illegally asking them to show identification.	Union-Tribune			
San Francisco	California	2-Feb-04	mayoral	A group called the People of Color Caucus alleged that some Latinas wearing Gonzalez buttons were told they were not allowed to vote	Los Angeles Times			
	Colorado	28-Oct-04	presidential	Democrats fear what they believe to be a plan by Republicans to challenge new voters, especially students at the University of Colorado at Boulder who may seek to use student IDs as proof of identification at the polls. State GOP brass said they have no such plan.	Denver Post			
2nd district	Connecticut	11-Nov-02	congressional	U.S. Representative tells Republican registrars to request police supervision at the polls if they are concerned about fraud or disturbance	The Day Online			
Osceola County	Florida	23-May-02	2001 special election	Federal observers found pollworkers downright "hostile" to Hispanics, even insisting that voters must speak English to vote	St. Petersburg Times			
Miami	Florida	1-Nov-02		Citing fears of voter intimidation and a repeat by GOP operatives to "barrage polling places," local Democrats -- including former U.S. Attorney General Janet Reno and U.S. Rep. Carrie Meek -- are suing to block Miami-Dade County from allowing a Republican political action committee to put poll watchers inside the county's precincts Tuesday.	Miami Herald			
	Florida	22-Jun-04	presidential	Harkening back to the 1960s, when Southern states used poll taxes and in-timidation to shut blacks out of elections, the Rev. Jesse Jackson on Monday ac-cused Florida Gov. Jeb Bush of engaging in "disenfranchisement schemes" by asking counties to purge felons from voter rolls. "This is a typical South [tactic], denying the right to vote based on race and class," Jackson said. "You see classical voter disenfranchisement. These schemes to deny or suppress voters are not new schemes."	Miami Herald			
	Florida	19-Sep-04	presidential	The Justice Department is investigating accusations that Florida law enforcement officers intimidated elderly black voters during a probe of voting fraud in the Orlando mayoral election. Civil rights groups and Democrats contend that the agents presence and behavior, including allegedly displaying their guns, intimidated the minority voters they visited.	AP			
	Florida	1-Oct-04	presidential	Representatives from People for the American Way saw poll workers turn back registered voters who did not have ID, although that is not required. A spokeswoman from Election Protection says that several voters report being asked if they are citizens during early voting.	The Progressive			
	Florida	16-Oct-04	presidential	Democratic election lawyer says Republican plans to challenge voters at the polls may intimidate voters	St. Petersburg Times			

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Duval	Florida	25-Oct-04	presidential	Two white men were filming voters as they entered the poll site in a presumed attempt at intimidation	Financial Times			
	Florida	26-Oct-04	presidential	The Republican Party distributed to the media affidavits from anonymous voters claiming to be harassed at polling sites in Miami, Pembroke Pines, Boca Raton, Plantation, St. Petersburg, Jacksonville Apopka and Tallahassee.	Miami Herald			
	Florida	27-Oct-04	presidential	Democratic National Committee (DNC) Chairman Terry McAuliffe has accused Re-publicans of engaging in "systematic efforts" to disenfranchise voters, imposing unlawful identification requirements on voters, throwing eligible voters off the rolls and depriving voters of their right to cast a provisional ballot.	Washington Times			
	Florida	29-Oct-04	presidential	Democrats have complained that GOP poll watchers will issue challenges in order to slow down the voting process and drive people away from the polls	Palm Beach Post			
	Florida	29-Oct-04	presidential		Miami Herald			
	Florida	30-Oct-04	presidential	Democrats fear Republicans will systematically challenge black and Hispanic voters and create long lines at the polls. The suspicions were fed by reports that Republicans had a list of 1,866 voters they were planning to challenge in predominantly black areas of Jacksonville.	Orlando Sentinel			
	Florida	30-Oct-04	presidential	Based on a 1982 consent decree, The Advancement Project filed a lawsuit asking a federal district court in New Jersey to ban GOP poll watcher activities in heavily minority precincts in Florida. The suit contends that in New Jersey, Louisiana, and North Carolina, the RNC sent mass mailers to thousands of voters registered predominantly in black precincts. When thousands were returned because of incorrect addresses, those names went on lists for challenges. The GOP says it has just done a mass mailer to new voters.	Tampa Tribune			
Broward	Florida	30-Oct-04	presidential	At one polling station, Republicans claimed that Democratic poll watchers were approaching Republican voters and shouting "There's a dirty Bush supporter!" as they waited on line.	Ottawa Citizen			
Miami	Florida	30-Oct-04	presidential	Democratic poll workers say Republican poll workers are intimidating Kerry supporters, staring at them and refusing to move away if they decline to accept a Bush-Kerry sticker.	The Boston Globe			
Broward	Florida	30-Oct-04	presidential	A Republican Party spokesman said elderly voters standing in line at early polling places who refuse to accept Kerry stickers have been harassed with shouts of "Hey, we've got a Bush voter here!" He says Republican poll watchers and volunteers have been "pretty much continually harassed and intimidated."	The Boston Globe			

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	Florida	31-Oct-04	presidential	Democrats say Republicans are disproportionately putting poll watchers in predominantly minority precincts and said it could signal plans to intimidate or slow down voters. In Miami-Dade County, Democrats said 59% of predominantly black precincts have at least one Republican poll watcher, while 24 % of predominantly white precincts have them. In Leon County, 64% of black precincts have at least one Republican poll watcher compared with 24% of majority white precincts. In Alachua, 71% of black precincts have a Republican poll watcher assigned, while 24% of white precincts do.	St. Petersburg Times			
Miami	Florida	1-Nov-04	presidential	Election Protection reports that Haitian Americans complained that "thugs" had walked along the waiting lines at an early polling site and demanded to see identification, while telling voters they could be deported.	Cox News Service			
Broward	Florida	3-Nov-04	presidential	Four GOP poll watchers were ejected from the polls by police and another was "threatened by poll workers for telling them to assign voters provisional ballots. These are people without ids or even listed on the voter roll," according to a party statement.	Boston Globe			
Miami	Florida	3-Nov-04	presidential	GOP challengers were monitoring the polls, armed with packets that included color mug shots of felons the party said were improperly included on the voting rolls. At the urging of the Bush campaign, some of the poll watchers were wearing buttons, hats or T-shirts that said "voting rights counselor."	Washington Post			
Sanford	Florida	3-Nov-04	presidential	At Midway Elementary School east of Sanford, a predominantly black voter pre-inct, Democratic officials complained a large law-enforcement presence intimi-dated voters. A deputy sheriff assigned to the precinct moved his patrol car, with his po-lice dog inside, after Democrats complained to the Seminole County Sheriff's Of-ice about it being parked at the entrance to the parking lot, where they said there were as many as four deputies at a time.	Orlando Sentinel			
	Florida	2-Mar-05	presidential	Shouting matches and rowdy behavior forced elections officials across the state to step in to keep the peace. Voters reported being harassed and intimidated at the polls.	Orlando Sentinel			
	Georgia	3-Nov-04	presidential	Many voters said they were denied provisional ballots or had to argue with poll workers to get them.	Atlanta Journal Constitution			

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Atkinson County	Georgia	28-Oct-04	presidential	<p>Ninety-five people who make up more than three-quarters of a rural Georgia county's registered Hispanic voters were summoned to a courthouse Thursday to defend their right to vote after a complaint alleged a county commissioner attempted to register non-U.S. citizens.</p> <p>The Atkinson County Board of Registrars, however, dismissed most of the complaint at the beginning of the hearing, saying the case could open the county to charges of violating the Voting Rights Act. Remaining complaints against two voters were dropped when the complainants declined to present any evidence against them.</p> <p>The three men who filed the complaint had said they have evidence a county commissioner attempted to help non-U.S. citizens register so they could vote for him in the July 20 Democratic primary.</p> <p>Lawyers from the American Civil Liberties Union and the Mexican American Legal Defense and Education Fund got involved because the men filed the challenges based on a list they had received from the Board of Registrars of all Hispanics registered in the south Georgia county.</p> <p>Linda Davis, chief registrar in Atkinson County, said</p>				
East Chicago	Indiana	21-Apr-04	mayoral	<p>The Mexican American Legal Defense and Educational Fund filed a federal lawsuit last October alleging that election officials conspired to persuade Hispanics to vote by absentee ballot and limit their access to the polls in the 2003 Democratic primary.</p> <p>The U.S. Attorney's Office is investigating similar allegations.</p> <p>The lawsuit seeks to overturn the election of Mayor Robert Pastrick, who defeated challenger George Pabey, who is of Puerto Rican descent.</p>	AP			
	Indiana	7-Oct-04	presidential	<p>Persistent warnings about terrorism also have drawn skepticism from some Democratic election officials and civil rights advocates who have accused the Republican White House of creating a climate of fear that, among other things, could suppress voter turnout. Heavy voter turnout historically has favored Democrats in U.S. elections.</p> <p>Some local officials in Indiana accused Secretary of State Todd Rokita, a Republican, of trying to intimidate voters after he asked election clerks to develop responses to "an immediate and present danger." Engy Abdelkader, civil rights director for the Council on American-Islamic Relations, says that Arab-Americans and other minorities could choose to stay away from the polls if they believe that federal agents will be questioning people there.</p>	USA Today			

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Clay County	Kentucky	29-May-02	county clerk primary	A poll worker, Jeff Farmer, was stationed at Horse Creek Elementary School as a "challenger," someone who observes the process and can ask voters to prove identities or addresses. The sheriff said Farmer was warned after interfering with voters. "I told him to sit his ass down," Jordan said. When Farmer went outside about 10:30 a.m. and began "pulling voters out of line," according to Jordan, a sheriff's deputy told him to leave or face arrest. Farmer had a different version of events, saying he went out to smoke and wasn't allowed back in.	Lexington Herald Leader			
Jefferson	Kentucky	31-Oct-03	gubernatorial	A flyer written and distributed by the Republican in charge of recruiting poll workers asserts that in three previous races the NAACP and the Philip Randolph Institute have targeted "poor, black voters" and encouraged them to "commit voter fraud." Civil rights leaders say this shows that the Republican plan to put challengers in predominantly African American poll sites is racially based. The Republican County chair had announced that Republicans would place challengers at 59 precincts that were either chosen at random or because there were too few election workers.	The Courier-Journal			
Louisville	Kentucky	2-Nov-03	gubernatorial	Black voters in Louisville sued Friday over a Republican plan to put vote "challengers" in dozens of black precincts	AP			
Louisville	Kentucky	4-Nov-03	gubernatorial	Republicans plan to deploy "a small army" of challengers in Jefferson County. Critics say the mobilization of mostly white challengers in poorer minority districts is intended to intimidate. Black leaders held a rally decrying the Republican initiative.	Christian Science Monitor			
Jefferson County	Kentucky	3-Aug-04	presidential	A group of Republicans called on the county party chair to resign because of plans to use voter challengers in the election. In 2003, the party used Republicans from across the county to watch voting in 18 predominantly Democratic districts -- most of them with large numbers of black voters.	Courier Journal			

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Baton Rouge	Louisiana	7-Oct-03	sheriff	Tangipahoa Parish Sheriff Ed Layrisson said Monday he has suspended two deputies while his office investigates allegations of public intimidation against them. The deputies were at a polling place Saturday and allegedly asked several people in a group how they planned to vote in the sheriff's race, authorities said. The deputies "have adamantly denied the allegation," Layrisson said. He said the deputies were not in uniform, but were carrying their badges and weapons.	The Advocate			
New Orleans	Louisiana	2-Nov-04	presidential	Louisiana Election Protection says it received many complaints of voters being denied the right to vote if they did not have a drivers license.	AP			
Baltimore	Maryland	6-Nov-02	gubernatorial	The Democratic National Committee filed a lawsuit seeking to prevent the Ehrlich campaign from using off-duty police officers as poll workers. The Democrats dropped the action when the campaign agreed the officers would not wear uniforms, badges or sidearms or identify themselves as police officers.	Washington Post			
	Maryland	6-Nov-02	statewide	In Maryland, David Paulson, the director of communications for the state Democratic Party, charged that signs saying voters needed photo identification to vote had been "illegally" or "extralegally" placed by the Board of Elections in Prince George's County, just outside of Washington. Photo identification has never been required for voters there, he said.	UPI			
Boston	Massachussetts	12-Mar-05		In 2002, there were allegations that Russian and Chinese voters were being told how to vote by translators in a Brighton precinct that is home to the Jewish Community Housing for the Elderly complex on Wallingford Road. After those allegations, the city changed the rules at the polling place located there: Now, no resident of the building is allowed to work as an elections official there.	Boston Globe			
Boston	Massachussetts	30-Jul-05		In a lawsuit filed yesterday, the Justice Department alleges that the city and its poll workers interfered with voters' rights by "improperly influencing, coercing, or ignoring the ballot choices of limited English proficient Hispanic and Asian-American voters" and of generally "abridging" their voting rights by treating Hispanic and Asian voters disrespectfully at the polls and by failing to provide adequate translation services for them.	Boston Globe			
	Massachussetts	18-Aug-05	presidential	A survey by the Asian American Legal Defense and Education Fund found 10 voters who had been turned away because their names were not on the rolls and who were not offered provisional ballots as required by law.	Boston Globe			

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Detroit	Michigan	6-Nov-02		<p>Trouble was reported at Bowen Recreation Center in Pontiac, where police were called after voters and election workers complained that a Republican Party volunteer was harassing people. Precinct chairwoman Linda Nichols said the woman, who identified herself as Teresa Sayer, came to the poll after leaving another location where voters had complained that she was questioning whether they were eligible to vote. "She would be behind the shoulder of the poll worker telling them what they could and could not do," Nichols said. "She even got behind the voter when they were going into the voting booth, asking them if they had identification."</p> <p>State election officials say challengers are not allowed to talk directly to voters but can question the veracity of a voter with poll chairpersons. State Republican officials denied that the woman was intimidating voters at the polling place. The precinct, on Bagley near Orchard Lake, is heavily Democratic and black.</p>	Detroit News			
	Michigan	18-Sep-04	presidential	<p>Democrats were outraged when Republican state representative John Pappageorge was quoted in July as warning that "if we do not suppress the Detroit vote, we're going to have a tough time in this election." Detroit is 83% black.</p>	San Francisco Chronicle			
Detroit	Michigan	4-Nov-04	presidential	<p>Reggie Turner, a Detroit lawyer with the Kerry campaign, complained of voter intimidation by GOP challengers at Detroit sites.</p> <p>"The documented incidents of intimidation and harassment that we have in our files are right out of the stories regarding harassment and intimidation in the South in the 1950s and 1960s," Turner said. GOP challengers harassed people in line to vote, requesting identification when they had no right to, and had lists of voters "they intended to challenge without any legal basis for such challenges."</p> <p>The GOP's Paolino said the lists were of newly registered Detroit voters to whom the GOP had sent mailings that came back from the post office as address unknown.</p>	Detroit Free Press			
Detroit	Michigan	8-Nov-05	mayoral	<p>The NAACP has received more than 100 complaints including ones involving intimidation at the polls. There were many fights between challengers and poll workers.</p>	Detroit Free Press			
Duluth	Minnesota	3-Nov-04	presidential	<p>Republicans systematically challenged a group of voters brought in by a nonprofit group and a group from a shelter. At another site, a minority group advocate accused a Republican challenger of intimidating American Indian and black voters.</p>	Duluth News-Tribune			

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	Minnesota	3-Nov-04	presidential	Secretary of State Kiffmeyer said her office received about 140 complaints about MoveOn. Minnesota Republican Party leaders tried and failed to get a restraining order against the MoveOn organization, which they accused of stationing activists too close to polling places Tuesday. But the judge disagreed. "The evidence has consisted almost entirely of hear-say," said Hennepin County District Judge Francis Connelly after a two-hour hearing Tuesday afternoon.	St. Paul Pioneer Press			
	Minnesota	3-Nov-04	presidential	Officials in Beltrami County and throughout the Twin Cities reported seeing poll challengers increasingly focused on polling places with particularly heavy populations of specific groups. Examples of those specific groups were college students, Indians on reservations, minorities or the homeless. In one case, the chairman of a Minnesota Indian tribe accused Republican poll challengers of intimidating legitimate voters by aggressively challenging their residency.	Star Tribune			
Red Lake Indian Reservation	Minnesota	22-Mar-05	presidential	A get out the vote activist and an election judge say that a Republican operative improperly challenged so many Indian voters at the reservation on Election Day that the challenger eventually was removed by tribal police. Director of Minnesota Election Protection 2004 said that most of the 46 complaints that her group forwarded to the national database had to do with "overzealous partisan challengers." The challenges were often based "on the way a person looked" or the fact that the person was not speaking English.	Star Tribune			
St. Louis	Missouri	28-Oct-04	presidential	Civil rights groups accuse the Republican Party of hiring hundreds of poll challengers as part of an effort to suppress the black vote in St. Louis. The Republican Party strongly denies this.	AP			
	national	15-Oct-04	presidential	The Justice Department is ill prepared to handle a large influx of complaints about voting rights violations in the Nov. 2 presidential election, according to a report released yesterday by the Government Accountability Office. The Justice Department "lacks a clear plan" to reliably document and track allegations in a manner that could allow monitors to swiftly pick up patterns of abuse and take corrective steps, according to the GAO, Congress's nonpartisan investigative arm.	Washington Post			
	national	3-Nov-04	presidential	Republicans filed complaints with courts about poll monitors from the liberal group Moveon.org "intimidating" voters in New Hampshire, Iowa, Minnesota, Colorado and Michigan - all close states. Moveon.org's Eli Pariser said the GOP charges were intended to "create a false and distorted record to assist them in any legal challenges."	New York Daily News			

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				Racial slurs from election workers, missing bilingual ballots and unwarranted demands to check voter identification turned away Asian American voters across the nation, according to reports by the Asian American Legal Defense and Education Fund. "There were racist remarks in New York City - poll workers were blaming them for holding up the lines. One of them said, "You Oriental guys are taking too long to vote," she said. Although the legal fund continues to tally its exiting poll surveys and has no firm estimate for the number of incidents, Fung said repeated requests from poll workers to check identification hindered the high turnout of Asian American voters. With their patience worn thin by the inadequacy of their voting site, many simply left without voting. In polling sites across Detroit, University of Michigan student volunteers monitoring the polling sites said they not only encountered deficient polling sites, but also challengers from the Republican Party deliberately aiming to drive voters away through tactics of intimidation.				
	national	4-Nov-04	presidential		University Wire			
				In his first high-profile address since conceding the presidential election, Senator John F. Kerry used Boston's annual Martin Luther King Jr. memorial breakfast yesterday to decry what he called the suppression of thousands of would-be voters last November. "Thousands of people were suppressed in their efforts to vote. Voting machines were distributed in uneven ways," the former Democratic nominee told an enthusiastic audience of 1,200 at the Boston Convention and Exhibition Center in South Boston. "In Democratic districts, it took people four, five, 11 hours to vote, while Republicans [went] through in 10 minutes. Same voting machines, same process, our America," Kerry said. Critics of the election process in Ohio say there were not enough voting machines in urban, Democrat-leaning precincts, leading to long lines that dissuaded many voters from casting ballots. In some cases, polls were held open after the announced closing time to allow everyone in line to vote, but some left without voting after standing in line for hours. Some blacks in particular have also				
	national	18-Jan-05	presidential		Boston Globe			
Tonopah	Nevada	23-Oct-02	local	A group called "Concerned Citizens for Fair Elections" filed 1,200 voter challenges, nearly 200 of which were duplicates or triplicates of the same challenge; 220 were improper; several of those who signed the challenges under penalty of perjury said they never inspected the residence they claimed was abandoned or not occupied by a registered voter. District Attorney investigates whether there was perjury	Pahrump Valley Times			
Washoe County	Nevada	1-Oct-04	presidential	The registrar says an official of the Republican Party came to his office with a small group asking how to launch a "full scale program for challenging voters."	The Progressive			
Las Vegas	Nevada	29-Oct-04	presidential	An effort by a former Nevada GOP operative to question 17,000 Democratic voters in Las Vegas was rejected earlier this month by election officials there	Washington Post			
Passaic County	New Jersey	26-Jun-01	municipal	A court appointed election monitor found that in the May 8 election violations included refusing to provide provisional ballots and intimidation of voters by candidates' representatives	New York Times			

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Passaic County	New Jersey	6-Nov-01	US Senate	Hispanic and black residents in the city of Passaic receive postcards in the mail warning of "armed law enforcement officers" at the polls and fines or prisons for anyone violating voting laws	The Record			
Passaic	New Jersey	4-Dec-01	sheriff	The federal monitor found that the weekend before Election Day, Passaic city voters received a mass mailed post card reminding them that "armed law enforcement officers" would be policing the polls. The cards inferred they were official and cited the name of the monitor. He said they seemed aimed at minority voters	The Record			
Licking County	New Jersey	27-Oct-04	presidential	A resident files challenges of 55 county residents whose voter confirmation cards sent from the Board of Elections were returned undeliverable. He withdrew 47 of his challenges and the board denied the other eight. The county Republican chair said that the state Republican Party directed counties to challenge suspect voters such as those who have an address where voter confirmation cards could not be delivered.	Newark Advocate			
	New Jersey	9-Nov-05	statewide	The state Democratic Party won an injunction in the Superior Court in Passaic County, with the judge issuing a statewide order barring any challenger from disputing any voter's ability to vote based on the voter's signature. The Democrats said they heard numerous complaints about GOP challengers interfering in the signature comparison process.	Star Ledger			
Sandoval	New Mexico	20-Oct-04	presidential	At a special meeting Tuesday, Sandoval County commissioners voted 3-1 against opening an additional early voting site in Rio Rancho. Commissioners cited a short time line and legal questions in voting against the poll. The commission called the meeting after Republican legislative candidates and the mayor of Rio Rancho complained that the lack of an early voting site in the city disenfranchised voters. "The combination of an incompetent county clerk and highly partisan Democrat commission has allowed disenfranchisement of the fourth largest city in New Mexico," said Whitney Cheshire, a spokeswoman for New Mexico Victory.	Albuquerque Journal			
	New Mexico	25-Oct-04	presidential	In a mass mailing, the Republican National Committee is citing Hispanic voter registration campaigns as proof that "Democrats... will cheat in order to win." Hispanic advocates say this is designed to suppress Hispanic voting.	Washington Post			
	New Mexico	3-Nov-04	presidential	In New Mexico, a Republican poll watcher videotaped a man as he left a polling station after casting a provisional ballot on Saturday, said Secretary of State Rebecca Vigil-Giron, a Democrat. Vigil-Giron said Republicans argued they wanted to record the voter's face for a possible legal challenge. Federal officials were investigating, she said.	Chicago Tribune			
New York	New York	31-Oct-05	mayoral	Democratic candidate sends a letter to the Department of Justice complaining of Republican election day plans to man some polls with off-duty corrections officers, calling it a bid to intimidate voters.	New York Daily News			

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Alamance County	North Carolina	27-Oct-04	presidential	The head of the Mexican-American Legal Defense Fund says the sheriff gave a list of registered Hispanic voters to immigration authorities to check their status. The sheriff "also threatened to go door-to-door personally with his department to ensure that immigration status was checked and make sure there was no 'perception of fraud by Latinos'"	Agence France Presse		
	North Carolina	29-Oct-04	presidential	In southeast Charlotte, Elections Director Michael Dickerson told poll workers at the Morrison Regional Library to stop asking people waiting to cast early votes to get identification cards ready. Richard Friedman, an unaffiliated voter who is volunteering with the Kerry campaign, complained after elections staff told people standing in line to get their driver's license or voter registration card ready. Most N.C. voters are not required to show ID when they vote, and no one asked for it when voters got in to cast ballots, Friedman said.	Charlotte Observer		
	Ohio	6-Sep-04	presidential	Ohio polling sites plan to add security, which some election officials believe will intimidate voters and poll workers	Columbus Dispatch		
	Ohio	20-Oct-04	presidential	Democrats believe the Secretary of State's order that people who appear to vote in the wrong precinct should not be allowed a provisional ballot and the unnecessary purging of voter rolls, and the Republicans' checking of new registrants are designed to intimidate voters into staying home.	Columbus Dispatch		
Montgomery	Ohio	23-Oct-04	presidential	Republicans filed a challenger list in 191 precincts - many of them in largely black neighborhoods around Dayton. Republicans say it is to prevent vote fraud	Cleveland Plain Dealer		
	Ohio	23-Oct-04	presidential	Republicans formally challenged the validity of 35,000 voter registrations across the state	Cleveland Plain Dealer		
Franklin County	Ohio	24-Oct-04	presidential	Dozens of Republican challenges to newly registered voters in Franklin County will be tossed out because they were not properly filed, a local elections official said yesterday. An initial review of 50 challenge forms filed by GOP activists shows 40 with an incorrect ward or precinct listed for the voter, said Michael Hackett, deputy director of the Franklin County Board of Elections. He said such mistakes will nullify requests to have people removed from the list of eligible voters. Voters whose eligibility is challenged need to prove Thursday that they're registered at their correct address. If they don't show up, elections board members can decide whether to keep them on the rolls. Franklin County Republican Chairman Doug Preisse said his party's challenges of voters' eligibility is not an attempt to deny legitimately registered people the right to cast a ballot. In Franklin County, beyond the challenges with incorrect information, it appears Republicans included some legitimately registered voters, including members of the military.	Columbus Dispatch		
Cleveland	Ohio	29-Oct-04	presidential	In a lawsuit, a voter and Democrats contend Republican challenges to voters around Cleveland and Columbus are designed to keep poor and minority voters from voting.	AP		
Hamilton	Ohio	30-Oct-04	presidential	Jeff Gamso of the ACLU said in Hamilton County, 250 of 251 precincts targeted by Republicans with challengers are majority African-American precincts.	Toledo Blade		

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	Ohio	31-Oct-04	presidential	Democrats accuse Republicans of using challengers to suppress voter turnout. Republicans will not allow the press to attend training sessions.	Cleveland Plain Dealer				
	Ohio	1-Nov-04	presidential	In a lawsuit in Hamilton County, civil rights activists say GOP challenges are discriminatory because they were filed disproportionately in precincts with a majority of black voters. A civil rights group seeks to block challengers in Ohio by arguing they violate a 1981 national order prohibiting the Republican National Committee from trying to intimidate black voters.	Columbus Dispatch				
Lucas	Ohio	3-Nov-04	presidential	In Lucas County, Ohio, Republicans asked a judge to bar poll monitors from wearing "Voter Protection Staff" and "Voting Rights Staff" armbands from polling spots.	New York Daily News				
Summit	Ohio	5-Nov-04	presidential	The Board of Elections threw out 976 of the challenges filed by the Republican Party without prejudice after a volunteer who brought the challenges revealed she did not have any personal information about the eligibility of the challenged voters. A member of the Board told the volunteer she could be indicted for signing a sworn challenge without personal knowledge of eligibility. The Board has indicated they plan to call the Department of Justice to conduct a criminal investigation of the challenges.	Philadelphia Tribune				
	Ohio	11-Dec-04	presidential	Because blue-collar and lower-income workers tend to vote Democratic, the long lines in Akron and other urban areas fueled suspicion of a deliberate tactic to hold down the turnout -- especially in largely African-American precincts -- for presidential challenger John Kerry.	Akron Beacon Journal				
	Ohio	23-Jun-05	presidential	Blacks and young voters in Ohio faced widespread voter suppression - mostly because of long lines and improper identification checks - during last year's presidential election, a new report released Wednesday by the Democratic Party said. Democratic National Committee Chairman Howard Dean said that while it's unclear whether the suppression was intentional or whether it influenced the election results, the party's five-month, \$250,000 investigation showed that 28 per-cent of Ohio voters - and twice as many black voters - reported facing challenges on Election Day. "You have a particular ethnic group that has to wait three times as long as other voters, then clearly there is something going on that is aimed at particular precincts," Dean said at a news conference in Washington. blacks waited an average of 52 minutes to vote while white voters waited about 18 minutes. It also found that 37 percent of Ohio voters reported being asked for identification. Ohio law requires only new voters to produce identification, and new registrants accounted for 7 percent of all voters. Blacks and voters under 30 we	The Cincinnati Enquirer				
	Ohio	23-Jun-05	presidential	Long lines were caused by the scarcity of voting machines in a number of precincts, particularly in minority areas, a report by the DNC on the election in Ohio says.	Washington Post				

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	Oregon	21-Oct-04	presidential	Officials are concerned about voter intimidation at ballot drop-off sites the evening of the Nov. 2 deadline. A Republican manual instructs GOP volunteers to take video cameras. Party officials say this is to make sure no ballots are collected after the 8 pm cutoff, but Democrats worry that it could frighten away some voters.	Christian Science Monitor			
	Pennsylvania	6-Nov-02	statewide	Democrats in the state are concerned about Operation Swarm and Storm – the name they say was given to an effort by the George Gekas campaign to challenge voters based on old information. A pamphlet was allegedly prepared by the campaign, which instructed Republican poll workers to challenge voters who had recently moved to new districts. The laws had been changed, however, and such challenges could have been wrongly made. Voters in some districts were also challenged to produce identification, charged state Democratic Party spokeswoman Mia DeVane. Voters she said need only provide a matching signature to vote in the state.	UPI			
Philadelphia	Pennsylvania	5-Nov-03	mayoral	Complaints filed with the police, the district attorney's office, and the Committee of Seventy alleging physical violence, harassment and intimidation were the highest in modern history. The DA's office reported it had received at least 171 complaints, nearly quadruple the 41 complaints of four years ago. Most charged that voters and poll workers had been intimidated or interfered with. Inspector William Colarulo said the Police Department had received at least 110 complaints, most dealing with simple assaults, vandalism and disturbances. In the course of the day, Common Pleas Judge Benjamin Lerner signed two orders directing Republican workers at polling places in Germantown and North Philadelphia to stop demanding identification from people showing up to vote.	Philadelphia Daily News			
Philadelphia	Pennsylvania	26-Oct-04	presidential	Republican Representative John Perzel, speaker of the state house, told US News and World Report that "The Kerry campaign needs to come out with humongous numbers here in Philadelphia. Its important for me to keep that number down." At the same time, he said campaign workers are examining voting records for evidence of Democrats registering more than once or otherwise violating election rules. An aide to Perzel said challengers will have lists of questionable registrations at the polls.	AP			
Philadelphia	Pennsylvania	31-Oct-04	presidential	In Philadelphia, Republicans unsuccessfully sought last week to change locations of 63 polling places, contending that their placement in closed bars or in homes would intimidate voters. Democrats pointed out that most of those locations were in minority neighborhoods and branded the move an effort to suppress black votes.	Philadelphia Inquirer			

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				Philadelphia's voter-registration administrator cried foul last night over a letter sent from the state GOP to judges of elections, the men and women who run the city's 1,681 polling places. He said the letter had wrongly instructed those poll workers to check and compare voters' various signatures "at will." He pointed to state law, which limits such checks to prevent long voting delays. State Republicans released additional details yesterday from their list of 10,000 letters to Philadelphia voters that they said were returned as undeliverable. They said they would use this list to challenge voters at the polls today Counsel to the state Republican Party said there were multiple reports yesterday that elderly voters in Lancaster and York Counties in Central Pennsylvania - an area the Bush campaign has been heavily courting - got phone calls telling them they would not be allowed to vote and urging them not to show up at the polls.				
Philadelphia	Pennsylvania	2-Nov-04	presidential		Philadelphia Inquirer			
				While overwhelmed poll workers pushed provisional ballots on some voters who should not have been using them, other voters who could have used provisional ballots were being turned away. In Allentown, about 10 lawyers and community activists rushed to the Salvation Army building on North Eighth Street to challenge poll workers who were stopping about eight people whose names were not in the registration list. In Montgomery County, a judge issued a mid-day order telling poll workers they that no longer needed county approval to give out provisional ballots.				
	Pennsylvania	3-Nov-04	presidential		Morning Call			
				There were long lines throughout the state, leading voters to wait for several hours in order to vote. Some voters waited into the night in order to vote. Some reportedly left without voting.				
	Pennsylvania	4-Nov-04	presidential		Philadelphia Inquirer			
				In Philadelphia, some voters were sent to police stations to cast provisional ballots, House Minority Whip Steny H. Hoyer (D-Md.) told a voting rights forum. "Clearly an intimidation," he said.				
Philadelphia	Pennsylvania	8-Dec-04	presidential		Los Angeles Times			
				The Board of Elections fired three elections officials because of charges they intimidated Democratic voters. One voter said a poll worker was aggressive in challenging his eligibility. Another said a worker yelled at her and then grabbed her arm and forced her out of the polling place because she was wearing a Kerry button.				
Lancaster	Pennsylvania	24-Apr-05	presidential		Lancaster Sunday News			

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Beaufort	South Carolina	5-Nov-02		Voters in Beaufort County who only have rural route addresses or post office box numbers on their voter registration cards might face problems at the polls today, a federal lawsuit filed in Charleston late Monday alleges. The lawsuit said that poll workers could challenge these voters' ballots, and that if this happens, black voters would be disproportionately affected. The chair of the election commission said poll workers will ask these voters to identify exactly where they live, possibly by having them point out their homes on a map. He said the purpose of doing this is not to discourage or embarrass the voter, it's to ensure they get the correct ballot. He said if there is any confusion, voters will be given failsafe ballots that exclude district races but still allow voters to cast ballots in federal, state and countywide races.	The Post and Courier		
Greer	South Carolina	12-Aug-04	county council	Candidate says he plans to have observers at the polls and may call for sheriff's deputies to enforce voting laws when voters try for a third time to nominate a Republican County Council candidate. His opponent alleges he is trying to intimidate black voters from voting.	Greenville News		
Columbia	South Carolina	2-Nov-04	presidential	Dozens of voters, many students, were turned away from a precinct at Benedict College after Republican poll watchers contested the legality of their vote. Challenges slowed voting at the precinct causing waits as long as four hours. The Republican Party executive director said poll watchers were challenging people who did not have proper state identification, such as a drivers license. Alternate forms of identification permit student to vote provisional ballots.	AP		
	South Dakota	31-Oct-02	US Senate	Senator Daschle says Republicans have targeted Native American communities in making allegations of vote fraud and launching initiatives in order to suppress the Native American vote	Washington Times		
	South Dakota	1-Jan-03	senate	Republican attorneys fanned out across the state on Election Day to gather affidavits to show vote buying. The State Attorney General (a Republican) says that of the 50 affidavits only three alleged criminal activity, and two of those proved to be false. One person is being investigated. Two of the affidavits were found to have been forged or perjurious. Each affidavit states that the person allegedly signing it claimed to have been picked up by a van driver, offered 10 to vote, taken to the polling place and home again and again offered the 10. Most of the allegations focused on the Rosebud Reservation	Indian Country Today (Lakota Times)		
	South Dakota	30-Jun-04	special election	During the June 1 special election, several Native American voters were told they could not vote if they did not have ID and were not told about the affidavit option. Most of the complaints came from across the state, many from reservations and some from Rapid City, where there is a large American Indian population. A Republican poll watcher denied this was the case. He said Indian voting rights workers were intimidating poll workers.	Indian Country Today (Lakota Times)		
	South Dakota	26-Aug-04	presidential	Some American Indians were not allowed to vote in the primary because they did not have photo ID and some said they were not told they could instead sign an affidavit.	Newsday		

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Sioux Falls	South Dakota	2-Nov-04	senatorial	On Election Day, a district court judge ruled Republican poll watchers in Charles Mix County had to stop following American Indian voters after they cast ballots. The GOP workers were also ordered to stop writing down those people's license plate numbers.	AP			
	Tennessee	5-Nov-02		A GOP memo to its poll watchers said, "There are problems" with the instructions [state election director]Thompson's office provided to local officials, and focuses on whether the would-be voters are legitimately qualified. "If the officers at the precinct are not screening voters for their qualifications to vote, including their citizenship, they should be challenged so that the election officials will carry out the law and make sure they are qualified to vote if they are first-time voters," the memo saysThompson said the U.S. Department of Justice, part of President Bush's ad-ministration, notified him of the GOP memo last week and expressed concerns about it. After conferring with the Justice Department and state Attorney General's office, Thompson sent a four-page memo to local election officials Friday that makes it clear that poll watchers are forbidden by law to question or chal-lenge voters directly and that election officials are not to require would-be voters to provide proof of eligibility, as the GOP memo seeks. The state Democratic Chair said the challenges targeted Afri	Commercial Appeal			
Prairie View	Texas	6-Oct-04		Students at historically black college Prairie View A & M filed several lawsuits against a Texas district attorney for making comments that he would prosecute students that falsely declared the school as their place of residency. In 1979, the US Supreme Court ruled in favor of Prairie View A & M, upholding a student's right to vote.	Los Angeles Sentinel			
	Utah	18-Jun-04	congressional primary	An immigration-issues group is mounting a last-minute bid to challenge hundreds of foreign-born voters in Utah's Republican primary Tuesday. The effort is the work of ProjectUSA, based in Washington, D.C. The Utah voter challenge would require those singled out in the state's 3rd Congressional District by ProjectUSA to confirm at the polls that they are U.S. citizens and registered voters. State elections director Amy Naccarato is concerned ProjectUSA might scare off some legitimate voters.	Deseret Morning News			
	Utah	6-Nov-04	congressional	The Republican candidate challenged the legal registration of 1,495 residents of the Holladay-area neighborhoods in the days before the election. 1,494 were Democrats, and one was from the American Party. The County Clerk determined the claims were groundless and said he could be subject to a charge of voter intimidation.	Salt Lake Tribune			

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	Washington	20-Dec-04	gubernatorial	<p>Procedures for validating ballot signatures vary widely from county to county in Washington state, a fact that has become significant given the razor-thin margin of the governor's race.</p> <p>A survey by The Seattle Times showed that counties use different procedures for evaluating signatures, the newspaper reported Sunday.</p> <p>More than 3,400 absentee and provisional ballots in Washington were rejected in the November election because the signatures didn't match those on file with elections officials. The state Supreme Court last week rejected an argument by the Democratic Party that counties have disenfranchised voters by handling mismatched signatures so differently.</p>	AP			
King	Washington	20-Dec-04	gubernatorial	<p>King County election workers were told as early as May that if an absentee ballot came in without a matching signature on file they were required to make a concerted effort to verify that the vote was valid. Before a special election in May, King County election workers routinely violated state law by counting such ballots without making any attempt to verify the signatures. In this November's general election, the county's absentee-ballot staff still didn't make the effort to find matching signatures. But instead of counting the ballots automatically, they rejected them.</p>	Seattle Times			
	Washington	31-Mar-05		<p>A Soap Lake man is challenging the voting credentials of hundreds of Washington voters, saying he thinks they're illegal immigrants who registered and cast ballots illegally.</p> <p>But Martin Ringhofer may have a hard time proving the challenges he has filed in Spokane and 10 other Washington counties.</p> <p>For one thing, there's the methodology of his research. Ringhofer said he obtained a list of people who registered to vote when they obtained or renewed a driver's license, then culled the list for names "that appear to be from outside the United States," particularly those that appeared to be Hispanic or Asian. For another, there's the fact that many of the people on his list are citizens. In fact, The Spokesman-Review contacted a dozen of the 161 people on Ringhofer's Spokane County list, and all of them are citizens.</p>	Spokesman Review			
King	Washington	5-Nov-05	county	<p>Elections officials said hundreds of angry voters called to complain about a Republican backed effort challenging their right to vote. Several voters said the GOP County Vice-Chair was wrong that their registrations did not have their legitimate address. Those voters challenged will have to either re-submit registration forms or when challenged, vote by provisional ballot. Democrats called it a voter intimidation and suppression effort.</p>	Seattle Post-Intelligencer			

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King	Washington	10-Nov-05	presidential	A county councilman asks the county prosecutor to investigate whether a Republican challenger committed perjury in filing some of the challenges without justification. The challenger was the head of the county GOP's Voter Registration Integrity Project* which challenged the registrations of 1,944 voters saying they were registered at private mailbox businesses and storage complexes. Many of the challenges turned out to be baseless. Others did not know it was illegal. Those voters had to file a challenge ballot. The validity of those ballots will be determined at a canvassing board hearing. County Democrats claim the challenges were an attempt to intimidate and disenfranchise voters.	Seattle Times			
Lincoln	West Virginia	31-May-05	primary	Defendants in a vote buying case allege that federal agents intimidated voters by videotaping and photographing voters as they visited the polls.	AP			
Milwaukee	Wisconsin	13-Oct-04	presidential	Milwaukee County Executive Scott Walker, citing vote-fraud concerns, is publicly balking at a City of Milwaukee request for almost 260,000 additional ballots in anticipation of high turnout for the Nov. 2 presidential election. Mayor Tom Barrett blasted Walker's stance, and Common Council President Willie Hines Jr. immediately joined in, saying it was an attempt to suppress the central-city vote.	Milwaukee Journal Sentinel			
Milwaukee	Wisconsin	27-Oct-04	presidential	Federation for American Immigration Reform sent Michigan residents to Wisconsin voter registration stations set up by an immigrant rights groups to see whether an illegal immigrant was registering illegal voters. The group said it refused to register the Michigan voters and if they insisted they discarded their forms. Prosecutors will check to ensure the registrations were not mailed in.	AP			
Milwaukee	Wisconsin	28-Oct-04	presidential	Although the Board of Elections refused a request by the state Republican Party to have 5,619 names and addresses removed from Milwaukee voting lists, the party plans to challenge anyone who tries to vote from those addresses at the polls. A Journal Sentinel review shows many of the names and addresses confirmed some of the problems cited by the GOP, as well as uncovered additional missing addresses. Some cited by the GOP may be explained by clerical errors, however.	Milwaukee Journal Sentinel			

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				Citing a new list of more than 37,000 questionable addresses, the state Republican Party demanded that city officials require identification from all of those voters. If the city doesn't, the party says it is prepared to have volunteers challenge each individual - including thousands who might be missing an apartment number on their registration - at the polls. Democrats say this is a last minute effort to suppress turnout by creating long delays at the polls. This is in addition to the 5,619 bad addresses the party claimed. The state GOP chair said they had just focussed on Milwaukee because its voter list is a mess and cause for great alarm.				
Milwaukee	Wisconsin	31-Oct-04	presidential		Milwaukee Journal Sentinel			
Milwaukee	Wisconsin	2-Nov-04	presidential	The tires of 30 vans Republicans had rented to help get out the vote were slashed.	AP			

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Resolution of incident/ allegation	Source of Resolution 1:	Source of Resolution 2:

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In the Jacksonville area, Republicans say they have a list of 2,663 newly registered voters from mostly Democratic black communities whose registration could be fraudulent. Republicans have said that poll watchers will enforce a portion of Florida law allowing poll watchers to challenge a voter at the polls. The St. Petersburg Times on Thursday quoted Gov. Jeb Bush as saying he would not have a problem with Republican poll watchers challenging the eligibility of voters	The Ledger, October 31, 2004	

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<p>A judge turned down a request Monday to block Republican poll challengers from observing Tuesday's election in predominantly black neighborhoods of the city.</p> <p>Jefferson County Circuit Judge Thomas Wine denied a restraining order sought by the American Civil Liberties Union of Kentucky, which claimed the poll watch-ers could intimidate minority voters or slow voting. The ACLU also filed suit in federal court seeking to bar the poll challeng-ers, but there has been no hearing.</p>	<p>AP, November 4, 2003</p>	
<p>Precinct workers in western Louisville and Newburg reported no problems with Republican vote challengers and predicted a high voter turnout yesterday - in contrast to fears that the challengers would intimidate black voters and keep them from the polls. Even as the number of targeted precincts dropped to 18 because of staffing and training issues, the controversy drew national attention, with the Democratic National Committee and the National Association for the Advancement of Colored People sending personnel to help organize a get-out-the-vote effort. The NAACP also stationed volunteers outside polling places to ensure that voters were treated fairly.</p>	<p>The Courier Journal, November 5, 2003</p>	

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<p>A US District judge ordered all political parties to refrain from talking to voters at the polls. The ruling came in response to a suit filed by the Detroit NAACP which said it had received complaints from 19 polling places that state and national GOP poll monitors were harassing voters. Republicans disputed the claim. The suit charged GOP workers were harassing voters in violation of a state law that prohibits challengers from talking to voters. The suit also said the watchers challenged the eligibility of Detroit voters to cast ballots, prompting some to leave without voting. The Detroit NAACP president said it was an attempt to reduce the black vote in next years state and congressional elections.</p>	<p>November 9, 2003 Detroit Free Press</p>	

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After a court fight, scheduled hearings on the challenges were canceled, but voters still received mail notifying them they were being challenged.	January 7, 2005, Columbus Dispatch	

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District court judges blocked the challenges because they could cause delays, confusion and intimidation. 6th Circuit overturns the lower court rulings.	Columbus Dispatch, November 2, 2004	

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<p>The Washington-based immigration issues group ProjectUSA has backed down on its plan to challenge blocs of Utah voters in areas with high immigrant populations.</p> <p>Craig Nelsen, president of ProjectUSA, had said he intended to challenge the voters in Utah's 3rd Congressional District based on concerns that illegal immigrants would vote for Congressman Chris Cannon in Tuesday's primary.</p> <p>Nelsen said Friday that after analyzing voter registration rolls and U.S. Census Bureau data for Utah's 3rd Congressional District, his group "didn't find any (patterns) that would warrant a challenge." Election officials in Salt Lake and Utah counties echoed Naccarato's relief Friday afternoon that no challenge had been filed. Attorneys in both counties had been scrambling to review the legality of any such challenges.</p> <p>"Our biggest concern was the message it was sending to voters," said Utah County Clerk Jim Jackson. "It almost smacked of discrimination against a group. That's just not right."</p>	<p>Deseret Morning News, June 19, 2004</p>	

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The GOP withdrew 140 of 1500 claims, admitting they were faulty. Democrats charged that Republicans' real aim was to discourage voters from voting. Voters whose registrations were challenged will have to vote by paper and the Canvassing Board will conduct hearings on whether the votes should count. Challenged voters may make their case at the hearings, at which the burden of proof is on the Republican challengers.	Seattle Post-Intelligencer, November 8, 2005	

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<p>Amid a renewed push Friday by Republicans to get some 5,600 names removed from Milwaukee voting lists, prosecutors began examining 500 new registrants that a city review indicated are from non-existent addresses. The same review by the city attorney's office, however, raised doubts about the quality of the GOP's original list, finding that hundreds of the addresses that the Republicans claim are invalid and want removed do, in fact, exist. Some others, according to City Attorney Grant Langley, can be explained by data entry errors, not attempted fraud. Late Friday, Langley outlined the review situation in a letter to Lisa Artison, head of the city Election Commission.</p> <p>The letter said the review by his staff and the district attorney's office found cases where the database used by the GOP was corrupted, dropping digits on some homes so otherwise valid addresses showed up as non-existent. In other cases, a check of the original handwritten registration cards showed digits had been transposed by clerks, something that can be corrected at the polls. Langley's letter says the review casts "doubt</p>	<p>Milwaukee Journal Sentinel, October 30, 2004</p>	<p>Milwaukee Journal Sentinel, November 1, 2004</p>

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Nexis Articles - Noncitizen Voting

City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Source1	Source 2	Source 3
Maricopa County	Arizona	5-Nov-05		159 noncitizens were found on the voting rolls. The county recorder said all of the cases involved people who misunderstood voting requirements. The county attorney nonetheless has charged ten of the immigrants with felonies.	LA Times			
Compton	California	12-Feb-02	mayor and city council	After an election legal challenge, two incumbents who originally lost were reinstated. In her ruling, the judge said numerous noncitizens voted illegally.	Los Angeles Times			
Pontiac	Michigan	11-Dec-01	mayor	Losing candidate claims there was "suspect" noncitizen voting	Detroit Free Press			
	Minnesota	23-Feb-05	presidential	Secretary of State Kiffmeyer said that she has asked several county attorneys across Minnesota to investigate evidence her staff uncovered that suggests some noncitizens illegally registered to vote in the November election. "So far, at least, we have 32 people who have registered to vote and seem to be -- allegedly -- not U.S. citizens," Kiffmeyer said. Some of the 32 also voted in the election. Both registering and voting are illegal for noncitizens. Kiffmeyer said her staff discovered the possible criminal offenses by comparing voter registration cards to driver's license records, which now identify noncitizens visiting the United States on visas.	Saint Paul Pioneer Press			
	North Carolina	24-Oct-04		A Washington-based advocacy group for tougher immigration laws recently said that it believes illegal immigrants may be registered to vote in North Carolina because they were able to sign up when obtaining driver's licenses without Social Security numbers. State elections and Division of Motor Vehicles officials say they've run two checks - one in 2002 and again this year - of people who received driver's licenses without proof of citizenship and found only a handful who had registered to vote. Those cases are being investigated, they said.	AP			
Houston	Texas	28-Jan-05	state house	Republican representative ousted narrowly by Democratic opponent alleges there was noncitizen voting in the election	Dallas Morning News			
	Utah	30-Aug-05		The Attorney General will investigate allegations in a legislative audit that found evidence of fourteen people believed to be noncitizens who have voted in a past election. The auditors office has said that a follow up investigation found that 6 of the 14 were actually citizens, two were confirmed by immigration authorities as having prior deportation orders and the other 6 are still under review. Of the six that were citizens, three had their Social Security numbers mistyped in the database and three were naturalized citizens.	Desert Morning News			

Resolution of incident / allegation	Source of Resolution 1	Source of Resolution 2

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 Nexis Articles - Vote Buying

City / County	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Source1	Source 2	Source 3
Phenix City	Alabama	31-Aug	municipal	The Attorney General and DA are investigating allegations of buying of absentee ballot votes	Columbus Ledger-Enquirer			
Pulaski	Arkansas	29-Aug-02	US House	Candidate says opposing campaign's consultant was paying residents of black nursing homes to cast absentee ballots and trying to skew the vote of black voting precincts in some cases.	Arkansas Democrat-Gazette			
Washington Park	Illinois	17-May-01	village	Candidate alleges that one voter was paid not to vote after being paid to vote absentee and two other people, possibly noncitizens, were paid for absentee ballots.	Belleville News-Democrat			
East St. Louis	Illinois	30-Jun-05	county	5 convicted of conspiring to buy votes with cash, cigarettes and liquor	Chicago Sun Times			
Berrien County	Indiana	16-Apr-05	city commission	A Berrien County judge Friday overturned the recall of Glenn Yarbrough in a civil trial against the city of Benton Harbor and Clerk Jean Nesbitt. In his ruling, Judge Paul Maloney said the true will of the people was violated by gross voter fraud in February's recall election. He cited bought votes, forged ballots, and jobs promised in return for "yes" votes, crimes allegedly committed by someone other than Yarbrough.	South Bend Tribune			
Clay	Kentucky	24-Oct-02	county	federal prosecutors are investigating absentee vote buying	Courier Journal			
	Kentucky	6-Nov-02	primary	In Knott County, there were nearly a dozen complaints in the primary alleging vote-selling for drugs, said assistant commonwealth's attorney Lori Daniel, but no one has admitted it. She said the attorney general's office has a pending investigation in Knott County. Reports of vote-buying also were reported in Magoffin, Pike and Floyd counties during the primary.	Courier Journal			
London	Kentucky	16-Sep-04	2002 judicial	Man found guilty of paying \$10 each to a group in a church parking lot after voting	AP			
Winnfield	Louisiana	12-Apr-02	police chief and mayor	Losing candidate accuses opponent of paying ten people to vote	Daily Town Talk			
Marksville	Louisiana	15-May-02	mayoral	Two men accused of buying votes for small amounts of money	AP			
Iberville	Louisiana	13-Dec-02	primary	Iberville Parish Councilman Howard Oubre Jr. and three other Plaquemine residents were arrested Thursday for allegedly paying people to vote absentee in a recent election. Oubre went into the community and solicited people to vote absentee in the Oct. 5 primary election. Oubre allegedly paid these people between \$3 and \$10	The Advocate			
River Rouge	Michigan	4-Apr-04	mayoral	State police are looking into allegations that the mayor's supporters offered payments o up to \$25 for absentee votes	Yahoo News			

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Ingham	Michigan	6-Oct-04	presidential	The Michigan Republican Party accused Michael Moore of bribing students to vote in the presidential election. The party sent letter to prosecutors in four counties. As part of his tour, Moore tossed out packets of low-priced instant noodles and 12-packs of Hanes briefs to students who promised they would vote.	Lansing State Journal			
Detroit	Michigan	15-Dec-05	mayoral	Detroit's top elections official said Wednesday she is concerned that people may have sold votes on the eve of the city's Nov. 8 election, and said she may ask the Wayne County prosecutor to investigate. Gloria Williams, director of elections for City Clerk Jackie Currie, cited a Nov. 7 incident in which a Detroit man told police he thought he witnessed a scheme to pay people for votes as he stood in line to cast an absentee ballot. Detroit police took a report from the man but closed the case without further contact with the suspects or witnesses. A woman cited in the police report said nothing improper happened - political activists were coordinating with poll workers. Williams said the question is whether the people were required to vote a certain way in exchange for jobs handing out literature and promoting candidates at voting places the next day.	Detroit Free Press			
Tippah	Mississippi	27-Mar-04	sheriff	Seven people have been charged for buying people's votes on absentee ballots	AP			
East St. Louis	Missouri	2-Jun-05	mayoral	A precinct committeeman and four others are on trial, accused of using money from the County Democrats to buy votes	St. Louis Post-Dispatch			
Lenoir	North Carolina	9-Mar-03	sheriff	For \$ 10, \$ 20 or \$ 25, dozens of people -- perhaps more than 300 -- sold their votes in a race that saw a veteran Democratic sheriff turned out of office. The State Bureau of Investigation has been on the case for months, assigning as many as 10 agents to it. The U.S. Attorney's Office in Charlotte is also involved. So far, there have been no indictments.	News and Observer			

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Rosebud Indian Reservation	South Dakota	23-Dec-02	US Senate	<p>Republicans investigating Election Day irregularities in South Dakota based allegations of vote buying on rumors discussed on the Rosebud Indian Reservation, says David Norcross, a New Jersey lawyer who presided over the search for fraud.</p> <p>Republicans collected statements on a wide range of events, including accusations of people offering multiple names to vote and improper use of polling places by Democratic workers. The most serious claims, however, were three affidavits signed by Native Americans from the Mission area who said they were offered \$10 to vote by the driver of a van with a Tim Johnson for Senate sign in the window.</p> <p>Attorney General Mark Barnett has said that two of those statements were false and the third was suspect, but not before the allegations became the basis of reports in several national media outlets.</p>	Argus Leader			
Pine Ridge Reservation	South Dakota	2-Nov-04	presidential	On the Pine Ridge Indian Reservation, investigators are looking into Republican allegations of vote-buying.	AP			
Gregg	Texas	9-Sep-03	constitutional amendments	DA is investigating an employer for allegedly giving concert tickets to workers who cast early ballots	Tyler Morning Telegraph			
McAllen	Texas	20-Aug-05	mayoral	Grand jury is investigating whether "politiqueras" tried to buy absentee ballots	The Monitor			
Hidalgo	Texas	22-Dec-06	mayoral	Ten people were indicted on allegations of telling people who to vote for and unlawful solicitation of ballots for money.	AP			
Falfurrias	Texas	11-Sep-04	city	Candidate alleges the opposing campaign bribed some voters with money, beer and cigarettes in exchange for their votes, according to his lawsuit contesting the election	Corpus Christie Caller Times			
Appalachia	Virginia	11-May-05	council	State police are looking at claims that supporters of a candidate offered food, cigarettes and liquor to residents in a public housing complex for letting the supporter fill out absentee ballots for them	The Post			
Logan	West Virginia	19-Jul-04	federal primaries	County sheriff pleads guilty to conspiring to buy votes in elections he was running in	AP			
Lincoln	West Virginia	31-May-05	primary	12 people are indicted for selling their votes for \$20 or \$40.	AP			
Logan	West Virginia	29-Nov-05	various	Logan County Clerk plans to plead guilty to conspiring to bribe voters between 1992 and 2002. Prosecutors already have guilty pleas from the county sheriff and the police chief.	AP			
Logan	West Virginia	2-Dec-05	House primary	FBI operates a sting operation by putting up a phony candidate to catch a man engaging in buying votes. Man is being tried for conspiracy to buy votes	Washington Post			

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	West Virginia	1-Jan-06		Thirteen people have been convicted of vote buying in the southern part of West Virginia over the last several years, including the 2004 primaries. However, the federal investigation is ongoing. In terms of cooperating witnesses, prosecutors may also continue to rely on Thomas Esposito. In an apparently unprecedented move, the FBI briefly planted the former longtime Logan mayor as a candidate in a 2004 legislative race. Evidence supplied by Esposito and his 75-day candidacy yielded December guilty pleas from two Logan County residents	AP				
Hanna	Wyoming	27-Apr-01	mayoral	State Division of Criminal Investigation said gratuities, such as alcoholic beverages, were allegedly offered in exchange for votes.	AP				

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Resolution of incident / allegation	Source of Resolution 1	Source of Resolution 2

1. August 2003 two acquitted of vote buying in the primary. In June 2003 another man in Lackey was found innocent of vote buying. Two indicted in Knott County pled guilty earlier in August 2003. 15 still under indictment 2. February 3, 2004: Knott County man sentenced to 20 months in prison for vote buying in the 1998 primary. The Knott County Judge-Executive and another man were convicted October 1 of vote buying

August 16, 2003,
 Courier Journal

AP February 3, 2004

1. Both were convicted. 2. One of the accused had his conviction overturned by the 3rd circuit

1. Daily Town Talk,
 September 21, 2002 2.
 Daily Town Talk, April 3,
 2003

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5 Democratic operatives were convicted, four pled guilty	Belleville News Democrat (July 3, 2005)	

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<p>Republican attorneys fanned out across the state on Election Day to gather affidavits to show vote buying. The State Attorney General (a Republican) says that of the 50 affidavits only three alleged criminal activity, and two of those proved to be false. One person is being investigated. Two of the affidavits were found to have been forged or perjurious. Each affidavit states that the person allegedly signing it called to have been picked up by a van driver, offered 10 to vote, taken to the polling place and home again and again offered the 10. Most of the allegations focused on the Rosebud Reservation</p>	<p>1/1/2003, Indian Country Today (Lakota Times)</p>	
<p>A special prosecutor was named to oversee an investigation into al-legged vote buying and ballot theft in Appalachia</p>	<p>Roanoke Times, September 24, 2004</p>	

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1. August 2003 two acquitted of vote buying in the primary. In June 2003 another man in Lackey was found innocent of vote buying. Two indicted in Knott County pled guilty earlier in August 2003. 15 still under indictment 2. February 3, 2004: Knott County man sentenced to 20 months in prison for vote buying in the 1998 primary. The Knott County Judge-Executive and another man were convicted October 1 of vote buying	August 16, 2003, Courier Journal	AP February 3, 2004

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City/ County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Source 1	Source 2	Source 3
	Arkansas	23-Oct-02		At least six dead people tried to register to vote, including one helped by a person also listed on campaign-spending reports as having received \$100 from the state Democratic party, said Marty Ryall, Republican Party chairman. Michael Cook, executive director of the Arkansas Democratic Party, said a former staffer had hired two teenagers to register voters and that they took names directly from the phone book. He said the incident happened seven months ago and that party officials are cooperating with the U.S. Attorney's Office.	Washington Times			
0	California	16-May-02		A Lafayette man has been charged with voter fraud after registering his toy poodle, Barnabas, to vote, a move he says was meant to show lax registration oversight. Donald Miller, 78, has been charged with misdemeanor voter fraud. The Contra Costa County district attorney's office found out about the stunt after reports about Barnabas being called for jury duty in March.	AP			
18th CD	California	3-Jun-02	congressional	Several voters have said they were tricked into registering to vote as Republicans when they were told they were signing a petition to lower taxes or applying for a rebate from the power company or some other falsehood.	Roll Call			
Stockton	California	13-Jul-02	congressional	A Stockton man hired to register Republican voters pleaded guilty to forging someone's name on a voter registration card. The conviction is the first arising from a Republican funded voter registration drive that Democrats allege involved fraud.	Modesto Bee			
Lynwood	California	16-Oct-03	city council	Eight family members of a councilman are charged with registering at nonexistent addresses	Los Angeles Times			
Stockton	California	24-Mar-04	unclear	paid worker pleads guilty to a misdemeanor charge of forging six registration cards in 2001	Recordnet			
Solano	California	20-Oct-04	presidential	Solano County elections officers, suspecting fraud, have sent about 150 voter registration forms to the California Secretary of State's Office for examination. Officials say the questionable forms are the products of intense efforts by both Democrats and Republicans to register voters for the upcoming presidential election. That zeal, further fueled by cash given to so-called "bounty hunters" who sign up voters, may lead to intentional errors on voter forms, officials said - a misspelled name, a fabricated street address, a rearranged Social Security number.	Tri-Valley Herald (Pleasanton, CA)			
Hayward City	California	1-Nov-05	school board	Roger Treskunoff, 51, a former school board candidate and former Hayward City Councilman was charged with creating fictitious names and registering those names as voters with the Alameda County Registrar of Voters.	Contra Costa Times			
San Joaquin	California	March 24, 200; 4/6/18/2005	state senate	County says it is examining 1500 voter registration cards for fraud because of similar looking signatures.	Recordnet			

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Denver	Colorado	16-Oct-04	presidential	A worker at the Election Commission found a registration form with her own name on it. When another form was cross-referenced with Vital Records, it was found to be from a dead person. Denver workers have forwarded 200 suspicious registrants to the DA. The voter outreach coordinator says the computer immediately flags names of voters who have registered more than once. Several other counties have found suspect voter registration forms.	Rocky Mountain News			
	Colorado	17-Oct-04	presidential	The Secretary of State accused the Attorney General of not doing enough to prosecute potential ballot crimes. The Secretary confirmed that 6,000 felons are registered to vote. A Denver woman told a TV station she had registered to vote 25 times and signed up several friends up to 40 times to help her boyfriend, a paid staffer for a community group registering voters	Atlanta Journal Constitution			
	Colorado	18-Oct-04	presidential	With just two weeks before the Nov. 2 election, the state has been rocked by evidence that some voter-registration drives have submitted applications with forged signatures. In other cases, would-be voters have applied to vote as many as 40 times. At the same time, some registration drives have collected applications and then failed to submit them by the Oct. 4 deadline, prompting Secretary of State Donetta Davidson to announce the use of provisional ballots last week. At yesterday's meeting with county clerks and district attorneys, Mrs. Davidson announced procedures for accepting provisional ballots, which are issued to people who say they have registered but whose names fail to appear on the voter roll. Such ballots would be marked "VRD," for "Voter Registration Drive." The would-be voter would have to produce identification and tell when and where they registered. The ballot later would be checked against the state's voter data-bases. The clerks are referring cases that appear to be blatant fraud, such as forged signatures, to the county attorneys. Bill Ritter, the Denver district attorney, said he saw no pattern of a conspiracy to cheat.	Washington Times			
Denver	Colorado	28-Oct-04	presidential	Denver prosecutors charged two people Wednesday with falsely filling out multiple voter forms to boost their pay in a paid registration drive. Criminal cases are pending against four people for questionable registrations in the metro area, and there may be more before investigations are completed.	Rocky Mountain News			
Orange	Florida	31-Oct-02	state senate	The State Attorney is investigating charges of illegal changes to party affiliations on voter registration cards for a primary. The scheme seems to have been targeted at Hispanics.	Orlando Sentinel			

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	Florida	23-Oct-04	presidential	Officials say that more than 4,200 students from many colleges and universities in the state had their party affiliation switched without them knowing and tricked into registering Republican when they were asked to sign an assortment of petitions and forms. Some students attributed the work to a company working for the Republican Party	AP			
Duval	Florida	29-Oct-04	presidential	Elections officials asked prosecutors to investigate possible voter fraud involving 25 registration forms with apparently bogus addresses.	Telegraph Herald (IA)			
	Florida	31-Oct-04	presidential	Students at Florida State and Florida A&M universities, some of whom signed petitions to legalize medical marijuana or impose stiffer penalties for child molesters, unknowingly had their party registration switched to Republican and their addresses changed. Officials say students at the University of Florida in Alachua County have made similar complaints and that about 4,000 potential voters in all have been affected. Local papers have traced some of the problems to a group hired by the Florida Republican Party, which has denounced the shenanigans. Switching voters' party affiliations does not affect their ability to vote, but changing addresses does, because when voters shows up at their proper polling places, they will not be registered there.	Washington Post			
	Florida	15-Dec-05	constitutional amendment	Fourteen months after a campaign to increase Florida's minimum wage drew allegations of voter fraud, a federal judge in South Florida has ruled at least some of those accusations against grass roots political group ACORN were so baseless they amount to defamation. Stuart alleged that ACORN improperly handled registration forms when it conducted voter registration drives, including not submitting Republican registrations to election officials. The judge upheld ACORN's counterclaim that Stuart's lack of evidence made his allegations libel and slander. An investigation by the Florida Department of Law Enforcement also found no evidence of criminal activity at ACORN, department officials confirmed Wednesday.	St. Petersburg Times			

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Fulton County	Georgia	4-Nov-05	presidential	The U.S. attorney for Georgia's Northern District is investigating the circumstances surrounding more than 2,400 "entirely fraudulent" voter registration applications submitted to Fulton County prior to the November 2004 elections, county elections officials say. Most of those suspect applications were submitted to the Georgia Secretary of State in September 2004 by the Georgia Coalition for the Peoples' Agenda, according to Atlanta attorney Harry W. MacDougald, a member of the Fulton County Board of Registration and Elections. Details of the federal investigation surfaced as part of litigation that challenges as unconstitutional Georgia's new voter photo identification law. Common Cause v. Billups. No. 4:05CV201 (N.D. Ga.). MacDougald made the investigation public in an affidavit submitted on behalf of defendants in the case	Fulton County Daily Report			
Chicago	Illinois	12-Mar-04	primary	Chicago election officials say as many as 2,000 fraudulent voter registrations have turned up in advance of Tuesday's primary election. Two suspects are under investigation, the Chicago Tribune said, both of whom gathered registrations on behalf of the Puerto Rico Federal Affairs Administration.	UPI			
East St. Louis	Illinois	30-Oct-04	supreme court	Illinois Republicans on Friday urged officials to look into "potential instances of massive voter fraud" in East St. Louis, showing pictures of an East St. Louis Democratic precinct committeemen's home that dozens of people registered to vote have listed as their address. But it turns out that that address and another called into question aren't single-family homes but are boarding houses or apartments that may house dozens of people.	St. Louis Post Dispatch			
Anderson	Indiana	11-Mar-04	unclear	Voter registered under the address of his rental property in another town faces perjury charges	WishTV			
St. Martinville	Louisiana	17-Jul-03	city council	5 people are arraigned on charges of including false information on their voter registration cards	Daily Advertiser			
St. Martinville	Louisiana	17-Dec-03	city council	City Councilwoman indicted for submitting false information to register to vote during her re-election campaign and persuaded three people not in the district to fill out registration forms; the voters were charged as well	2 The Advocate			
	Maryland	17-Jun-01		An 82-year-old woman signed her dog's name on a voter registration card to test the system. No charges were filed.	Washington Post			
Lansing	Michigan	28-Oct-04	presidential	Ingham County sheriff's detectives have turned over to prosecutors the findings of their investigation into hundreds of phony voter registration forms from a state advocacy group. It appeared that some PIRGIM workers went through a Lansing phone book and forged people's signatures on forms	Lansing State Journal			
Coates	Minnesota	31-Oct-02	all	94 voter registration forms had false addresses matching a strip club	Washington Times			

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Minneapolis	Minnesota	17-Oct-04	presidential	A former ACORN official arrested for running a stop sign had 300 voter registration forms, some of them months old, in his trunk. State law requires they be submitted to the secretary of state within 10 days.	Atlanta Journal Constitution			
St. Louis	Missouri	7-Mar-01	city	St. Louis Prosecutor Jennifer Joyce convened a grand jury that is investigating 3,800 suspect voter registration cards, including several for dead aldermen. The cards were turned in Feb. 7, the deadline to register voters. Joyce said there have been no indictments.	St. Louis Post-Dispatch			
St. Louis	Missouri	17-Apr-01	presidential general election and mayoral primary	FBI subpoenas election board records on all people who registered to vote, cast ballots, was turned away at the polls, or whose voter registration was rejected from October 1 [2000] through March 6 [2001]; Senator Bond calls for further investigations because his office learned from state election officials that 24,000 registered voters in the city and 33,000 voters in the county were registered to vote somewhere else	St. Louis Post-Dispatch			
St. Louis	Missouri	17-Dec-04	mayoral	Six plead guilty to dozens of crimes involving falsifying voter registration forms	St. Louis Post Dispatch			
	Nevada	17-Oct-04	presidential	Democrats said Voters Outreach of America, a Republican funded registration group run by Sprouts & Associates, destroyed Democratic voter registration forms. A former employee of the group told a Nevada TV station that registrations collected from Democrats had been destroyed instead of filed with the elections office. The head of the company denied the accusations	Atlanta Journal Constitution			

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Clark County	Nevada	31-Oct-04	presidential	<p>Voting Registrar Lomax said he found that canvassers returned stacks of 1,000 completed registration forms that often contained 30 to 50 applications filled out in the same handwriting. Lomax had no total figure for such fraudulent registrations.</p> <p>He also found that canvassers registered the same individuals several times over the span of a week.</p> <p>Some legitimately registered voters called to ask why they were getting registration forms--with their party affiliation changed, Lomax said. Apparently some canvassers went through the phone book and reregistered people without their consent, listing their parties incorrectly, Lomax said. Though registration drive organizers told Lomax's office that canvassers were paid by the hour, many canvassers told his staff and even provided pay stubs that showed they were paid \$2 for every completed registration form they collected in malls, stores and neighborhoods, Lomax said. "They were on both sides. It wasn't just Democrats, it wasn't just Republicans," Lomax said. "The money was clearly the root of all evil here. They were paying people to register the voters."</p>	Chicago Tribune			
	New Mexico	10-Sep-04		US Attorney forms a task force after finding two teenagers registered to vote	Albuquerque Journal			
Bernalillo County	New Mexico	15-Sep-04	presidential	Three Republican candidates want to examine all voter registration forms sub-mitted by a woman who, while working for a group that signs up new voters, reg-istered a 13-year-old New Mexico boy.	AP			
	New York	19-Sep-02	gubernatorial	Dead voters were among the thousands of flawed voter registrations submitted by campaign workers of Governor Pataki during an enrollment drive, New York City officials determined	Poughkeepsie Journal			
Bronx	New York	23-Jun-03	gubernatorial	Bronx DA and a grand jury investigate whether Rikers Island supervisors filled out registration cards in the names of inmates (such inmates are eligible to vote)	Newsday			
Queens	New York	15-Sep-04	state assembly	About 100 people in the Flushing area gave commercial addresses on voter registration forms, raising suspicion at polling sites yesterday that may cast a shadow over the assembly race.	Newsday			
Greensboro	North Carolina	6-Dec-01		Imtiaz Ahmed Siddiqui pleaded guilty Thursday to voter fraud in a brief fed-eral court hearing that included no mention of the allegation that he may be ac-quainted with terrorists. Siddiqui, 31, answering questions in halting English, admitted he signed a voter registration form that identified him as a U.S. citizen when he got a driver's license in Durham in August. He is a citizen of Pakistan.	AP			

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Charlotte	North Carolina	24-Oct-04	presidential	Officials are investigating ACORN because an ACORN organizer found that one of its workers had faked about 70 registrations. The worker was fired and the information turned over to the state board. A similar problem with a consumer interest group in Wake County has also been turned over to state officials	Charlotte Observer			
	North Carolina	24-Oct-04		The Charlotte Observer found more than 60,000 people who appear to be registered in both Carolinas. Alamance County Sheriff says illegal immigrants are registering to vote using false documents at drivers license offices. North Carolina is investigating two groups that may have falsely registered new voters. Some are worried that noncitizens could vote because in North Carolina one can get a drivers license without a social security number. The Elections division and the DMV ran two checks of people who received drivers licenses without proof of citizenship and found only a handful who had resgistered to vote.	AP			
Mecklenburg County	North Carolina	28-Sep-05		Mecklenburg County commissioner Bill James and Libertarian Lewis Guignard formally challenged the registration of more than 400 homeless voters Tuesday, saying they had improperly registered using commercial addresses. James and Guignard said the 464 voters challenged in their complaint incorrectly used the addresses of the Urban Ministries at 945 N. College St., the Charlotte Rescue Mission at 907 W. First St. or the Salvation Army at 534 Spratt St. to register, even though those are commercial addresses where the voters could not permanently live.	Charlotte Observer			
Cincinnati	Ohio	20-Aug-03	city council	More than 70 people have claimed a Walnut Hills tailoring shop as their home address while registering to vote, leading the Hamilton County Board of Elections to subpoena the tailor, who is a candidate for Cincinnati City Council.	Cincinnati Enquirer			
Franklin	Ohio	8-Sep-04	presidential	A part-time worker for ACORN was indicted for falsely filling out and signing a voter registration card	Columbus Dispatch			
	Ohio	15-Oct-04	presidential	In Hamilton County, the Board of Elections has subpoenaed 19 registered voters who elections officials don't believe exist. The Summit County Board of Elections in Akron has asked Ohio Attorney General Jim Petro to investigate 803 allegedly fraudulent voter-registration cards, many of which appeared to be in the same handwriting. In Lake County, east of Cleveland, several voter-registration cards seem to have forged signatures, elections officials say.	Cincinnati Enquirer			

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	Ohio	20-Oct-04	presidential	State GOP Chair says that the party tried to contact 231,834 new registrants in the five largest counties and had 5.7% returned as undeliverable.	Columbus Dispatch			
Defiance	Ohio	31-Oct-04	presidential	The sheriff arrested a man for submitting 130 phony registration forms with such names as Mary Poppins and Dick Tracy. Authorities say he confessed to being paid in crack cocaine by an NAACP volunteer.	Dallas Morning News			
Parma	Ohio	9-Jan-05	presidential	Three police officers are being investigated on accusations that they listed police headquarters as their home addresses when registering for the Nov. 2 election, officials said.	AP			
	Oregon	17-Oct-04	presidential	The Secretary of State announced an investigation into allegations that a paid canvasser with Sproul & Associates had been told to register only Republicans. The head of the organization denied the accusations.	Atlanta Journal Constitution			
	Oregon	30-Oct-04	presidential	Chemeketa community colleges, Western Oregon University and the University of Oregon all told similar stories: They were approached on campus and asked to sign a petition, often urging lower auto-mobile insurance rates for students, and then asked to sign or initial a second document, which turned out to be a voter registration card. Many of the students were urged to mark Republican as their party affiliation; others were told to leave the party affiliation section blank but to put their initials next to Republican on that part of the form. Many of the students already were registered voters. Some students didn't realize they were registering to vote, or that their party affiliation was about to change. Nathan Sproul, whose company conducted the registration drive, did not respond to calls seeking comment. His firm has been accused of using similar tactics involving bogus petitions at colleges in Pennsylvania, according to the Pittsburgh Post-Gazette. In an earlier interview with The Oregonian, Sproul confirmed that his canvassers are paid a "bounty"	Newhouse News Service			

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	Pennsylvania	25-Oct-04	presidential	Republicans mailed letters to 130,000 people who had registered to vote in the last 6 months. 10,000 came back as undeliverable. The legal counsel to the state party said Republicans had looked at a sample of the letters and found 15 of 100 of the registrants were dead. The director of a nonpartisan organization says in a transient city many people may have moved over a six month period, and many letters might not have reached people living in shelters or substandard housing.	Philadelphia Inquirer				
Allegheny	Pennsylvania	28-Oct-04	presidential	County investigators have launched an investigation into a scam in which University of Pittsburgh and Community College of Allegheny County students believed they were signing petitions to legalize marijuana for medical use, only to find themselves registered as Republicans.	Pittsburgh Tribune Review				
East Providence	Rhode Island	20-Aug-05	town primary	Four people charged with using business addresses to register to vote	Pawtucket Times				
East Providence	Rhode Island	2-Dec-05	municipal	Nine people are accused of registering at business addresses. Charges against two are dropped because they did not sign the registration cards. Three other defendants have been invited to apply to the adult diversion program. Arraignments were postponed for four others. October 30, 2004: As many as 287 people were originally suspected.	Providence Journal				
Rapid City	South Dakota	19-Oct-02	unclear	forged registration applications by a worker being paid by the application	Argus Leader				
	South Dakota	21-Oct-02	statewide	Several counties, almost all of them adjoining an American Indian reservation, submit questionable registration forms to law enforcement	Argus Leader				
Rapid City	South Dakota	12-Jul-03	unclear	Individual reaches plea agreement for falsifying registration cards	Midwest News				
Codington	South Dakota	28-Jul-04		A Phoenix man accused of forging voter registration forms in Codington County has been sentenced to prison. Howard L. Brewer, 44, pleaded guilty last month to three counts of forgery. He was charged after the county auditor's office received an envelope in April that contained 20 voter registrations. Eight to 10 of the forms were suspicious.	AP				
Harris	Texas	5-Feb-05	state legislature	County Tax Assessor-Collector alleges 157 registered had false addresses. County officials are investigating	Houston Chronicle				
Prince William	Virginia	5-May-05	state legislature	Candidate charged with lying on a registration card and voting in a district where he did not reside.	Washington Times				

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Milwaukee	Wisconsin	31-Oct-04	presidential	Citing a new list of more than 37,000 questionable addresses, the state Republican Party demanded that city officials require identification from all of those voters. If the city doesn't, the party says it is prepared to have volunteers challenge each individual -- including thousands who might be missing an apartment number on their registration - at the polls. Democrats say this is a last minute effort to suppress turnout by creating long delays at the polls. This is in addition to the 5,619 bad addresses the party claimed. The state GOP chair said they had just focussed on Milwaukee because its voter list is a mess and cause for great alarm.	Milwaukee Journal Sentinel			
Madison	Wisconsin	10-May-05	presidential	The vast majority of voters alleged to have been phantoms because their verification forms were returned as undeliverable really exist and their cards were returned because of innocent mistakes in filling out voter registration forms. Of 1,194 verification cards returned, 16 are still be examined	Wisconsin State Journal			
Milwaukee	Wisconsin	11-May-05	presidential	Arrest warrants issued and felony charges filed against two workers for Project Vote who admitted to filling out multiple registration cards using fictitious information to earn money	Milwaukee Journal Sentinel			
Milwaukee	Wisconsin	6-Dec-05	presidential	County DA charges two people affiliated with ACORN for filing false voter registrations	AP			

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Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2
June 2005: Paid worker charged with five felony counts of forging voter registration cards (none resulted in fraudulent votes)	Modesto Bee	

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<p>Nine people are slated to be indicted today on charges of collecting or de-destroying 3,800 bogus voter registration cards that were submitted to the St. Louis Election Board on Feb. 7, 2001, the last day for registering to vote in the hotly contested mayoral primary in March. Nine people have been indicted for trying to register fraudulent voters and destroy the evidence. State registration forms now are numbered and a record is kept of which cards have gone to which groups for voter registration drives. The fake registrations are linked to four temporary workers who had been employed by ACORN.</p>	<p>11/7/2003, St. Louis Post Dispatch</p>	<p>11/11/2003, St. Louis Post Dispatch</p>
<p>Three workers are charged with turning in fraudulent voter registration applications a few weeks before the mayoral primary.</p>	<p>St. Louis Post-Dispatch (March 5, 2002)</p>	
<p>Prosecutor says all the cards were caught and no one voted illegally.</p>	<p>St. Louis Post-Dispatch</p>	

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An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious.	11/8/2005	Akron Beacon Journal

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<p>An Akron woman was charged with filling out false registration cards. She may be the only person to face criminal charges after a yearlong state and federal investigation. A task force of state, federal and local investigators was launched last year after hundreds of fake registrations were apparently filed throughout Ohio. The investigation resulted in no federal indictments. The two fake registration cards traced to the woman were turned in by Project Vote and not submitted to the Board because the organization thought they were suspicious.</p>	<p>11/8/2005</p>	<p>Akron Beacon Journal</p>

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one indictment on five counts of forgery	Argus Leader	
Red Eart h Villeda, a contractor for the Democratic Party, is Investigated. SEE SOUTH DAKOTA SUMMARY	Argus Leader	

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Charles H. Wesley Educ. Found., Inc. v. Cox	United States Court of Appeals for the Eleventh Circuit	408 F.3d 1349; 2005 U.S. App. LEXIS 8320	May 12, 2005	Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the	The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration	No	N/A	No

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				foundation.	forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the			

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Voter Registration Rejection Cases - 2

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					<p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p>			
McKay v.	United	226 F.3d	September	Plaintiff	The trial court	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thompson	States Court of Appeals for the Sixth Circuit	752; 2000 U.S. App. LEXIS 23387	18, 2000	challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims.</p>			
Nat'l	United	150 F.	July 5,	Plaintiff, national	Defendants	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales	States District Court for the Southern District of Maryland	Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528	2001	organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p>			
Cunningham v. Chi. Bd. of Election Comm'rs	United States District Court for the Northern District of Illinois	2003 U.S. Dist. LEXIS 2528	February 24, 2003	Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed	Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p>	<p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					preliminary relief was denied.			
Diaz v. Hood	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445	October 26, 2004	Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials	The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p>	<p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prejudice granted.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment.	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA	No	N/A	No

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause	The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place	No	N/A	No

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p>	<p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Hileman v. McGinness	Court of Appeals of Illinois, Fifth District	316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845	October 25, 2000	Appellant challenged the circuit court declaration that that the result of a primary election for county circuit clerk was void.	In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been segregated, apportionment was the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a determination as to whether fraud was evident in</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the electoral process. The court reversed the declaration of the trial court, holding that a determination as to whether fraud was involved in the election was necessary to a determination of whether or not a new election was required.			
DeFabio v. Gummersheimer	Supreme Court of Illinois	192 Ill. 2d 63; 733 N.E.2d 1241; 2000 Ill. LEXIS 993	July 6, 2000	Appellant challenged the judgment of the appellate court, which affirmed the trial court's decision granting appellee's summary judgment motion in action brought by	Appellee filed a petition for election contest, alleging that the official results of the Monroe County coroners election were invalid because none of the 524 ballots cast in	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellee to contest the results of the election for the position of county coroner in Monroe County.</p>	<p>Monroe County's second precinct were initialed by an election judge, in violation of Illinois law. The trial court granted appellee's motion for summary judgment, and the appellate court affirmed the judgment. The Illinois supreme court affirmed, noting that statutes requiring election judges to initial election ballots were mandatory, and uninitialed</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption. Thus, the supreme court held that the trial court properly invalidated all of the ballots cast in Monroe County's second precinct. The court reasoned that none of the ballots contained the requisite initialing, and neither party argued that any</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>of the uninitialed ballots could have been distinguished or identified as absentee ballots. The supreme court affirmed the judgment because the Illinois statute requiring election judges to initial election ballots was mandatory, and uninitialed ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Absentee Balloting

City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Source 1	Source 2	Source 3	Resolution of incident / allegation	Source of Resolution 1	Source of Resolution 2	
Phillips	Arkansas	2-Nov-02	primary	The sanitation director for Helena, the Phillips County seat, admitted in court to illegally casting more than 25 absentee ballots in the Democratic primary in May.	Arkansas Democrat-Gazette							
South Gate	California	28-Jan-03	Treasurer and city council recall	Supporters of the recall, which is being led by the city's two police unions, say city employees have been illegally filling out absentee ballots against the recall.	Los Angeles Times							
Bridgeport	Connecticut	6-Sep-02		Election officials found an absentee ballot application for someone who is dead	Connecticut Post							
Bridgeport and New Haven	Connecticut	4-Nov-02	probate judge	FBI is investigating potential absentee ballot fraud in Bridgeport Democratic primary and two men face absentee ballot charges involving 2 New Haven primaries	Connecticut Post							
Hartford	Connecticut	12-Aug	state legislature	former state representative is charged with seven counts of absentee ballot fraud for absentee ballot coercion in a particular apartment complex	Hartford Courant							
Bridgeport	Connecticut	3-Dec-03	town committee	The elections commission wants four brothers to be charged with fraudulent voting for allegedly submitting illegal absentee ballots in the March 2002 Democratic Town Committee primary. The commission alleges that none of the brothers lived in Bridgeport when they voted in those city elections.	Connecticut Post							
Smyrna	Delaware	3-Aug-05	town	A challenger to the mayor who lost by 2 votes is suing the mayor for personally delivering absentee ballots to minority residents, some of whom were not eligible to vote	The News Journal							
Winter Garden	Florida	5-Mar-02	city commissioner	Four are charged with forging names on absentee ballots	AP							
Volusia	Florida	3-Oct-03	city	Elections officials inquire into 43 absentee ballot request forms with the wrong date of birth and 3 requests with forged signatures	Orlando Sentinel							
Winter Haven	Florida	6-Jan-04	town	criminal complaint filed against woman for voting by absentee ballot when she did not live in the district	Polk Online							

Deliberative Process
 Privilege

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EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Absentee Balloting

Hialeah	Florida	21-Mar-04	city council	Miami-Dade public corruption detectives fanned across Hialeah on Friday, questioning employees of the city's public housing agency, as well as friends and relatives of politicians aligned with Mayor Raul Martinez. Sources close to the investigation say those interviewed were asked about their alleged handling of absentee ballots gathered from voters - many of them elderly - in the city's public housing units.	Miami Herald					A special state prosecutor said he found no evidence of election fraud after a yearlong investigation of absentee voting at the Hialeah Housing Authority during that city's 2003 elections	Miami Herald, May 11, 2005	
Orlando	Florida	5-Mar-05	mayoral	A grand jury is investigating the possible mishandling of absentee ballots by a minority voting advocate who has worked for many campaigns	Orlando Sentinel					All charges are dropped. Democrats allege the whole case was politically motivated; Florida prosecutors dropped a case charging the mayor with paying a campaign worker to collect absentee ballots. Three others indicted on the same charge were also cleared.	April 21, 2005 Orlando Sentinel	April 21, 2005, The New York Times
Cook	Illinois	15-Mar-02	state	ACORN alleges that a man went to a senior citizen home and voted the seniors' absentee ballots	Chicago Sun-Times							
Calumet City	Illinois	3-Sep-03	mayoral	A county judge threw out and reversed an election because of absentee coercion of disabled voters	Chicago Tribune							
Marion	Indiana	1-Nov-02	county	The county prosecutor is investigating absentee ballots in which signatures don't match, voter's names were misspelled, and correction fluid was used to change te address	Indianapolis Star							
Madison	Indiana	29-Apr-03	primary	State police are investigating whether Democratic primary absentee ballots were delivered to nursing homes that traditionally vote Republican	Herald Bulletin							
Lake	Indiana	11-Jul-03	town	Allegations are made of absentee ballots from voters who moved and forged signatures by one person. Case will be heard by a county judge	Northwest Indiana News							
Porter	Indiana	31-Mar-04	town	Elections board investigates allegations that two ineligible voters voted by bsentee ballots	Northwest Indiana News							
East Chicago	Indiana	23-Jun-04	mayoral	The Indiana Supreme Court is considering whether to order a special mayoral election. The losing candidate claims he would have won if not for hundreds of fraudulent absentee votes cast for his opponent, including some cast on behalf of dead voters	AP							

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - Absentee Balloting

Anderson	Indiana	11-Dec-04	mayoral	The longtime Democratic Party chairman in Madison County is accused of illegally delivering absentee ballots cast by two Anderson residents. Another man is accused of 17 Class D felony charges for allegedly registering absentee voters, then telling them how to vote and picking up their ballots. A woman is accused of completing an absentee ballot in September 2003 that listed an address where she did not live.	Indianapolis Star						
East Chicago	Indiana	August 6, 2003, August 8, 2003	mayoral primary	It is alleged that city workers were asked to vote absentee, acquire absentee applications, and given paid election day positions for bringing in absentee votes	Northwest Indiana News			four people indicted, one for receiving absentee ballots for people ineligible to vote, one for failing to appear before the grand jury, and two for voter fraud and lying to the grand jury; county judges tosses out 155 absentee ballots but this does not change the election outcome; DOJ begins investigating	WISH TV, November 18, 2003; Northwest Indiana Times, January 21, 2004		Post Tribune, December 15, 2005: two Democratic precinct committeement and three people with ties to a city contractor were charged with pressuring acquaintances to fill out absentee ballots. This brings the total number of people charged to 22 (See East Chicago summary)
	Maine	13-Feb-04	state house	Police have begun investigating allegations that elderly voters were pres-sured into casting absentee ballots for a Green Independent candidate in Maine's special election. Chief Roger Beaupre said Thursday his department has received 10 complaints of voter intimidation from elderly voters who were told votes for candidates other than Green Independent candidate Dorothy Lafortune did not count.	AP						
River Rouge	Michigan	4-Apr-01	mayoral	state police investigating absentee coercion in a senior apartment building	Yahoo News						
Detroit	Michigan	8-Nov-05	mayoral	A lawsuit alleges the City Clerk's assistants have allowed voters to fill out ballots in group settings, didn't sign their names on ballot envelopes and advertised their services in nursing homes. She also sent 130,000 unsolicited absentee ballot applications defying a court order.	Detroit Free Press			County Circuit Court judge ruled the Clerk violated the law. There is an election contest and a federal investigation involving irregularities with absentee ballots.	November 9, 2005 Detroit Free Press; November 24, 2005 Detroit Free Press		
Houston	Mississippi	10-Nov-05	mayoral	Candidate files a complaint alleging 59 absentee ballots are questionable. He produced a letter from two elderly absentee voters saying they were given plates of food in exchange for allowing his opponent to fill out their ballots.	AP						

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - Absentee Balloting

	Missouri	19-Sep-04	gubernatorial	The state Democratic Party accused Republicans of coercion when they asked county clerks to send the names of people who had requested absentee ballots	AP							
East St. Louis	Missouri	5-Jan-05	city	investigations by the state attorney and the FBI into unspecified absentee ballot fraud	Post Dispatch							
Tonopah	Nevada	23-Oct-02	local general and primary election	The FBI investigates questionable absentee ballot requests	Pahrump Valley Times							
Las Vegas	Nevada	26-Apr-03	assembly	Man is indicted because he voted other people's ballots using absentee voter forms for people who lived outside the district.	AP							
Atlantic City	New Jersey	31-Oct-01	Mayoral	Mayor Whelan's campaign has alleged that street operatives for the mayor's challenger, Councilman Lorenzo Langford, tricked voters into requesting absentee ballots and then went to their homes to bully them into filling the ballots out for Langford. The Whelan campaign has also alleged that Langford has stockpiled absentee ballots to fill out fraudulently. The Langford campaign yesterday denounced Whelan's actions as a means of suppressing voter rights and said it would file a federal civil-rights lawsuit this week.	Philadelphia Inquirer							
Palisades Park	New Jersey	6-Nov-02		The Deputy Attorney General said in a court filing that the prosecutor is investigating four types of irregularities: "1) improprieties in the manner in which voters requested absentee ballots; 2) instances where the voter has stated that they received assistance in voting but that fact is not noted on the voter certification; 3) instances where the absentee ballot was de-livered to the Board of Elections by a person other than the one to whom the voter gave the ballot; 4) instances where the voter gave an unmarked ballot to another person."	The Record			276 absentee ballots from the 2002 election in Palisades Park are still impounded in the office of Patricia DiCostanzo, the Bergen County superintendent of elections.		October 4, 2004, The Record		
Atlantic City	New Jersey	9-Jul-03	county primary	Board of elections requests an inquiry into alleged forged absentee ballots	Atlantic County News							
Passaic	New Jersey	22-Sep-04	county	The FBI is investigating charges that voters targeted by a Democratic campaign had their signatures forged or had been pressured or misled into voting absentee	Heral News (Passaic)							

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Absentee Balloting

	New Jersey	4-Oct-04		In the city of Passaic, three dozen voters claimed they'd been victims of absentee ballot fraud in 2003.	The Record							
Albany County	New York	8-Mar-04	special primaries	131 absentee ballots were delivered by a ward leader, leading to vague allegations of coercion. All absentee ballots and machines impounded under a court order	Albany Times Union							
Albany County	New York	10-Mar-04	county legislature	One person filled in more than 140 signed absentee ballot applications, and there were other administrative errors in absentee ballot distribution and return. The candidates made a deal before the judge ruled on the case to have a special election; the absentee ballots are not counted	Albany Times Union							
Haskell	Oklahoma	7-Nov-02	district attorney	An absentee ballot scandal is being investigated in Haskell County, where one man allegedly admitted notarizing 42 absentee ballots without having the voters present while another man helped him, the District Attorney said.	Daily Oklahoman							
Providence	Rhode Island	23-Aug-02	mayoral	Elderly woman says strangers coerced her into giving them her ballot	Providence Journal-Bulletin							
Senate District 30	South Carolina	27-Sep-04	state senate primary	A person with connections to the Williams campaign nicknamed "The Voter Man" convinced elderly voters, some living in residential care facilities, to fill out absentee ballot registration forms. Some say they never received a ballot, even though records indicate a ballot was cast in their names. * At least one staff member at a Mullins care facility said non-communicative Alzheimer's patients were coaxed into casting absentee ballots. * Another person with ties to the Williams campaign turned in nearly 60 absentee ballots to election officials, many from elderly voters. While not technically illegal, the volume of absentee votes raised eyebrows within the Norwood campaign. As a result of suspected fraud the party ordered a new election and the cases are being criminally investigated.	The State							

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - Absentee Balloting

	South Dakota	20-Oct-02	statewide	several counties forward questionable absentee ballot requests	Angus Leader				October 25, 2002: Red Earth Villeda, a former Democratic contractor is investigated; October 27, 2002: State and federal agents target 25 South Dakota counties; October 31, 2002: no illegally cast ballots are found (see South Dakota summary)	Argus Leader		
Shannon	South Dakota	30-Oct-04	presidential	The prosecutor in Fall River County says he will investigate possible multiple voting by absentee ballot. The multiple ballots were cast by fewer than 10 people	AP							
Sioux Falls	South Dakota	2-Nov-04	senatorial	Three former Republican notary publics pled guilty to signing absentee ballots without witnessing the signatures. Three other former GOP workers are charged, as is one Daschle staff person accused of not being present for two notary applications. Officials say none of the incidents affected any votes	AP				A fourth former employee of the South Dakota Republican Party's get-out-the-vote operation has pleaded guilty to improperly notarizing absentee-ballot requests, and another who had pleaded not guilty will appear in court next week to change his plea. Six workers for the GOP Victory effort resigned last month after questions surfaced about some absentee-ballot applications collected at college campuses across the state. Charges were filed after officials said the workers notarized applications collected by other workers, violating a state law that requires notaries to witness documents being signed before they can give them their official seal.	November 4, 2004, Argus Leader		
Dallas	Texas	10-May-01	district council	Both candidates accuse the other manipulating the absentee ballot votes of senior citizens	Dallas Observer							
Dallas	Texas	16-May-01	city council	Several affidavits alleging mail-in voter fraud have been submitted to the Dallas County district attorney's office, according to election officials. But prosecutors have declined to comment about whether those allegations, or any others, would result in a criminal complaint.	Dallas Morning News				A voter fraud investigation has resulted in the indictment of a Dallas woman who is accused of filling out a mail-in ballot in May without the voter's permission, a Dallas prosecutor said Tuesday.	February 13, 2002, Fort-Worth Star Telegram		
Dallas	Texas	27-Jul-02	district council	A candidate for the council alleged three campaign workers spent Friday reviewing mail-in ballots and applications for the ballots and found at least 69 that they believe might have forged signatures on either document.	Fort Worth Star-Telegram							
Dallas	Texas	22-Apr-03	city council	A candidate submitted 12 absentee ballot applications with forged signatures. The DA is investigating.	Dallas Morning News							

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Absentee Balloting

Hearne	Texas	18-Oct-03	municipal	Man fined and sentenced to five years probation for voting in the names of three dozen other people by absentee ballot. He is the fifth person to plead guilty to similar charges brought by a grand jury in August.17 were indicted.	Houston Chronicle						
Hearne	Texas	28-Dec-03	mayoral	30 people were indicted for forged absentee ballot applications and sending in multiple absentee ballots	Star Telegram						
El Paso	Texas	12-Feb-04	water board	Several mail in ballot requests appeared to be filled out by the same person and a few were in the names of dead people. A precinct chairwoman was charged with four counts of tampering with government records	Assoc Press			Five people have been charged with sending in absentee ballot applications in the names of other people	2/13/2004, El Paso Times		
Hidalgo	Texas	3-Mar-04	miscellaneous, from congress to judge's race	Complaints were made to the Board of Elections against workers for several campaigns of irregularities concerning absentee ballots, including coercion of elderly voters, a complaint that someone requested an absentee ballot for a dead voter; four people said their ballots were already sealed when they received them, and a voter whos absentee ballot that was sent elsewhere	The Monitor						
Bexar	Texas	25-Mar-04	congressional	The names of 42 deceased people, most of whom lived on the South Side, appeared on applications for mail-in ballots that were submitted to election officials for the primaries. A computer at the Bexar County elections office flagged the applications and the district attorney's office is investigating. No ballots appear to have been sent to a dead person as a result of the applications, election officials have said. However, the applications were cited by Henry Cuellar - a Democratic candi-date for the District 28 congressional seat who lost by 145 votes - as one of several concerns that persuaded him to call for a recount this week. The list of applicants includes next-door neighbors, people who never voted when they were alive, and two who died in 1988. All but one bear the deceased's correct voter registration number. Each had the correct address and voting precinct, and all indicated the voter was older than 65, which is one of the reasons individuals may obtain a mail-in ballot. But whoever filled out many of the applications didn't alter his or her hand	San Antonio Express-News						

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EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Absentee Balloting

South San Antonio	Texas	23-May-04		Elderly voters complain of "vote brokering" whereby "coyotes" pressure them into voting by absentee ballot. Investigators have looked into this in the past, and there has only been one conviction of someone pressuring others to vote absentee.	San Antonio Express-News							
Robstown	Texas	27-May-04	school district	The District Attorney requested a recount of ballots because of many complaints of people filing mail-in ballots sent to homes of people who have died. One of the candidates says that in one instance a wife mailed in the ballot of her husband who just died, and another was a son's vote being mistaken for the father's because they had the same name.	Corpus Christi Caller-Times							
Falfurrias	Texas	11-Sep-04	city	After a May 26 recount, Jaime received 501 votes and Martinez wound up with 500 votes. In June, Martinez filed an election contest in district court claiming that "numerous co-conspirators" obtained votes by instructing the voters to cast their ballots for particular candidates. But a criminal investigation into voting violations started before voters cast the final ballots, according to a police report. So far, the criminal investigation has resulted in five felony and one misdemeanor indictments: Santiago Vela was indicted on a bribery charge; Armando Gon-zalez, Vanessa Kiser and Roel Mireles were indicted on illegal voting charges; Magdalena Saenz was indicted on an unlawful delivery of a voting certificate charge. One woman, Mirna Quintanilla, was indicted on a misdemeanor charge for allegedly filling out a mail-in ballot for a voter without permission.	Corpus Christi Caller-Times							
Houston	Texas	11-Nov-05	mayoral	Candidate alleges that 64 of the 579 absentee ballots cast in the primary are questionable.	AP							
Hidalgo	Texas	2/26/2004, March 6, 2004	primary	Texas Rangers investigate tampering with mail ballots by "politiqueras"	The Monitor							

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Absentee Balloting

Gate City	Virginia	2-Aug-05	mayor	mayor is indicted on 37 felony counts of voter fraud for coercing choices on absentee ballots	Roanoke Times					The former mayor was arraigned in Scott County Circuit Court. He entered not guilty pleas to 18 charges of aiding and abetting in violating the absentee voting process, 17 charges of making a false statement on an absentee ballot application, and two charges of conspiracy. Authorities say he targeted elderly and unsophisticated voters, pressuring them to give false reasons for voting absentee and sometimes filling out their ballots himself.	8/17/2005, Roanoke Times		
Milwaukee	Wisconsin	5-Mar-03	county board recall	A police handwriting expert labeled signatures on 60 absentee ballot envelopes suspicious and elections officials and the DA questioned 36 more. The 96 are among 162 that were distributed to 5th District voters by the African American Coalition for Empowerment. The group had residents agree to ask the city to send absentee ballots to their offices rather than directly to the voters. The group then went to the homes, witnessed the votes and returned the ballots.	Milwaukee Journal Sentinel								
Milwaukee	Wisconsin	15-Jan-04	county recall	A voting rights activist was convicted of three felony counts stemming from his management of an absentee ballot campaign. Although evidence suggested forgery and other mischief, the case turned on one voter registration card. The voter had his signature forged by his girlfriend, and the activist had signed the form as a deputy registrar.	Milwaukee Journal Sentinel								
Milwaukee	Wisconsin	20-Feb-04	county recall	One person is convicted for forging absentee ballots	Milwaukee Journal Sentinel								

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - 'Dead' Voters and Multiple Voting

City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Source 1	Source 2	Source 3
Apache	Arizona	31-Aug-04	2002 general	County Attorney alleges some Navajo Nation voters cast multiple ballots. The Election Director dismisses many of the allegations and questioned why the county attorney had waited more than a year and a half to make them.	Arizona Republic			
Eureka Springs	Arkansas	29-Jun-01	county judge	A special judge rules prosecutors must show the mayor intended to vote twice - he says he got confused when he voted early for a city bond election and the voting clerk offered him a primary ballot at the same time. He then voted in the primary at his precinct on election day.	AP			
La Puente	California	3-Aug-02	municipal	Four family members of a councilman were charged with voting twice because they voted absentee and on election day.	Los Angeles Times			
San Francisco	California	1-Mar-04	mayoral run-off	One of the candidates alleged that 400 people who are dead cast votes. The allegation was based on a computer program that cross-referenced voters and the social security death index using first and last names and date of birth. When the Chronicle also used middle initials and other identifying indicators, the list was whittled to five cases. Some were by absentee but a couple were in person.	San Francisco Chronicle			
	Colorado	25-Mar-05		58 of 64 counties responded to a request by the Secretary of State to report on fraud investigations. Only 13 counties have referred cases to prosecutors. Those cases included 41 instances of citizens voting twice. Denver County officials said they had 81 instances of double voting.	Denver Post			
	Connecticut	22-Oct-02	all	Secretary of State says that RNC allegations that 54 Connecticut voters cast ballots in 2 different states have been investigated and found to be false. 15 voted only in CT, 29 voted only in another state, four names were wrong because they had different birth dates, and three were referred to the FBI and US Attorney because information from the other state could not be obtained.	New Haven Register			
Bridgeport	Connecticut	23-Sep-03	mayoral primary	Losing candidate alleges some voters were able to vote twice.	News 12			
	DC and Maryland	31-Oct-02	state primary and presidential election	Records indicate that 24 voters cast ballots in both DC and Maryland in the September 2002 primary and 90 voters did so in the 2000 election. Voters denied they had done so and election officials said it was possible for precinct workers to make mistakes when recording who voted.	Washington Post			
Palm Beach	Florida	5-Dec-02	2002 general	The County State Attorney will be investigating about a dozen people accused of voting twice. Each cast an absentee ballot and voted on Election Day. The Secretary of State says they may have forgotten they voted absentee. They all had to vote by provisional ballots so none of the second votes were counted. This is the first time the Secretary's office has found people who voted twice.	Sun-Sentinel			
Indian River	Florida	2-Nov-04	presidential	One voter returned two absentee ballots -- the first one was counted and the second discarded. A woman voted by absentee and then during early voting. Her absentee ballot will be thrown out.	Press Journal (Vero Beach)			

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**EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting**

Palm Beach	Florida	6-Nov-04	presidential	The Palm Beach Post reports that three voters cast absentee ballots and then filled out provisional ballots on Election Day. Local officials have asked the Attorney General to investigate. The Post reached two of the voters and they said they cast provisional ballots because when they tried to check on their absentee ballots they were unable to confirm they had been received.	Florida Times Union			
Volusia	Florida	6-Nov-04	presidential	Volusia officials said Friday they have identified 12 cases of suspected election fraud stemming from Tuesday's presidential election. All involved people trying to vote twice, said County Judge Steven deLaroche, a member of the county canvassing board. In one case, which occurred during early voting, a person was caught trying to feed an absentee ballot into a tabulating machine after casting a traditional ballot, deLaroche said. That person was stopped by a poll worker. In the other 11 cases, people who had voted by absentee ballot or at an early-voting site tried to vote a second time on Election Day, he said. In those cases, election workers discovered the attempts when computers showed those voters had already cast ballots. All the cases will be forwarded to the State Attorney's Office for prosecution.	Orlando Sentinel			
Duval	Florida	31-Jul-05	presidential	Officials said in January that a review of records found more than 50 cases in which the same person had cast an absentee and in person ballot. An FBI investigation found that every one of those instances was due to a clerical error, such as someone signing the voter rolls before they were told they had to vote elsewhere.	AP			
Fulton	Georgia	30-Sep-04	primary	A man who may be facing felony charges for voting twice says he voted during the early period and that when he went to his precinct on election day to make sure that vote had been recorded, he was told it was not. The poll worker told him he should vote again. Fulton County investigated and found no other advance voters had voted again on the day of the election. The registration chief acknowledged the county was late getting names of advance voters to the polls. The advance vote was tossed out after it was discovered.	Atlanta Journal Constitution			
Marshall	Illinois	13-Nov-04	2002 and 2004	A man has been charged for voting twice, in both Kane County and Marshall County	South Bend Tribune			
Lake County	Indiana	16-May-04	county primary	A newspaper analysis shows that five votes cast were attributed to people who were dead well before the election.	AP			
Prairie Village	Kansas	8-Jan-05	2002 general	A woman who voted twice pled guilty -- she had voted from her business address and cast an absentee ballot from a different location in the same election.	Kansas City Star			

**EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting**

Hancock	Louisiana	3-Nov-04	presidential	A woman called a radio talk show Tuesday and admitted casting fraudulent votes in Hancock County. The woman said she voted once using her own name, but after realizing she was not required to show identification, she waited several hours and returned to the polls and used a friend's name . The county clerks said the incident seems to be isolated and her office has not received evidence of other fraudulent votes elsewhere in the county.	The Sun Herald			
Duluth	Minnesota	3-Nov-04	presidential	A voter claims someone forged his signature to vote under his name. He reported the incident to City Hall	Duluth News-Tribune			
Minneapolis	Minnesota	23-Feb-05	presidential	A felony charge filed Tuesday in Hennepin County District Court accuses Darin Randall Johnson, 34, of registering to vote and casting ballots in three different places in the November election. The criminal complaint alleges he filled out same-day registration forms and voted once in Brooklyn Park and twice in Minneapolis.	Saint Paul Pioneer Press			
Kansas City	Missouri	28-Mar-05	various	Man pleads guilty to casting double votes in four elections by voting in both Kansas and Missouri	Kansas City Star			
Kansas City	Missouri	September 6, 2004	all	Kansas City Star reports that their investigation shows there may be more than 300 voters voting twice in different counties. The exact number is impossible to determine because many counties have shredded their poll books and state computer files are rife with data errors. In fact, the number may be lower because the state computer files contain many errors that show people voting who did not actually vote. The study only flagged people registered in two places under exactly the same name and date of birth.	Kansas City Star, Belleville News-Democrat			
	New Jersey	16-Sep-05	presidential	Republican Party claims 4,755 people who have died voted in the election and 4,397 people registered to vote in more than one county voted twice	New York Times			
Sandoval	New Mexico	9-Nov-02	state house	A comparison of names on absentee-ballot-request rosters and affidavits for the absentee-in-lieu-of-ballots made it appear that 5 people had voted twice absentee by mail and absentee-in-lieu-of at the polls.	Albuquerque Journal			
Sandoval	New Mexico	24-Nov-04	presidential	Bureau of Elections employees found a woman who voted on a provisional ballot at one precinct also had voted at the regular precinct where she is registered. The signatures at both precincts appeared to be the same, so elections officials sent the case to the district attorney.	AP			
New York	New York	23-Oct-02	2000 and 2001	Former conservative party candidate for lieutenant governor is arraigned on an indictment for voting twice, from two different Manhattan addresses. He denies the charge	Newsday			

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Steal this Vote-Dirty Elections and the Rotten History of Democracy in America by Andrew Gumbel

The bulk of the book comprises stories from United States electoral history outside the scope of this project. However, these tales are instructive in showing how far back irregular and illegal voting practices go. Cases include the 1868 New York City elections; the Tilden-Hayes election; the impact of the introduction of the secret ballot; the 1981 consent decree; the 1990 Helms campaign; the 1960 presidential election controversy in Chicago; the rise of the voting machine business, including the introduction of punch card machines; and allegations by Republicans regarding NVRA.

Steal this Vote focuses almost entirely on alleged transgressions by Republican, although at times it does include complaints about Democratic tactics. Gumbel's accusations, if credible, especially in the Bush-Gore election, would indicate there were a number of problems in key states in such areas as intimidation, vote counting, and absentee ballots. However, due to its possible biases, lack of specific footnoting, and insufficient identification of primary source material, caution is strongly urged with respect to utilizing this book for assessing the amount and types of voter fraud and voter intimidation occurring.

Stealing Elections, John Fund

In Stealing Elections, John Fund says that “Election fraud, whether its phony voter registrations, illegal absentee ballots, shady recounts or old-fashioned ballot-box stuffing, can be found in every part of the United States, although it is probably spreading because of the ever-so-tight divisions that have polarized the country and created so many close elections lately. Although most fraud is found in urban areas, there are current scandals in rural South Dakota and Texas.” Fund admits that “Democrats figure prominently in the vast majority of examples of election fraud described in this book.” He argues Republican fraud is less common because Republicans are middle class and Democrats are poor and most fraud occurs in inner cities where there are a lot of minorities. However, because of politics, state and local prosecutors are reluctant to go after fraud.

He also stipulates that Democrats and Republicans have different worldviews on voting: Democrats are concerned about intimidation and disenfranchisement while Republicans are concerned with fraud and the need to police the polls.

Fund argues that fraud has been made easier by the passage of the National Voting Rights Act because it allows ineligible voters to remain on the voter rolls, allowing a voter to vote in the name of someone else. He claims dead people, people who have moved, and people in jail remain on the voting list. He believes because of NVRA illegal aliens have been allowed to vote. Absentee balloting makes it even worse: someone can register under false names and then use absentee ballots to cast multiple votes. Groups can get absentee ballots for the poor and elderly and then manipulate their choices.

Fund goes through a number of examples of alleged voter fraud, mostly perpetrated by Democrats. For example, he claims much fraud in St. Louis in 2000, including illegal court orders allowing people to vote, felons voting, people voting twice, dead people voting, voters were registered to vacant lots, election judges were not registered and evidence of false registrations

Another case he pays a great deal of attention to are the alleged transgressions by Democrats in Indian Country in South Dakota 2002, including voter registration fraud, suspicious absentee ballot requests, vote hauling, possible polling place fraud, abusive lawyers at polling sites, and possible vote buying.

Fund criticizes and scorns “conspiracy theories” around electronic voting perpetuated by Democrats. He says that “By whipping up a frenzy of suspicion about electronic voting, Democrats will have built a platform from which, if the presidential or key Senate elections in November 2004 are close, they can launch endless lawsuits everywhere there were problems with electronic machines.”

Stealing Elections focuses almost entirely on alleged transgressions by Democrats. Fund’s accusations, if credible, would indicate that fraud such as voter registration fraud, absentee ballot fraud, dead people voting, and felon voting is prevalent throughout the country. However, due to its possible biases, lack of specific footnoting, and insufficient

identification of primary source material, caution is strongly urged with respect to utilizing this book for assessing the amount and types of voter fraud and voter intimidation occurring.

The Long Shadow of Jim Crow, People for the American Way and the National Association for the Advancement of Colored People

This report describes the pervasive and repeated practices of voter intimidation and vote suppression that have taken place in very recent years and during contemporary American history. The most recent cases included in the report are the incident in which Florida law enforcement questioned elderly African American voters in Orlando regarding the 2003 mayoral race, which had already been resolved, shortly before the 2004 election; the 2004 Florida felon purge list; the case of South Dakota in 2004 in which Native Americans were improperly and illegally required to show photo identification at the polls or denied the right to vote, and similar improper demands for ID from minorities in other parts of the country; the use of challengers in minority districts in many locations; the challenge to the right of African American students to vote in Texas in 2004; the presence of men looking like law enforcement challenging African American voters at the polls in Philadelphia in 2003; the distribution of flyers in Louisiana and elsewhere in a number of elections over the last few years in minority areas telling them to vote on the wrong day; and the FBI investigation into thousands of Native American voters in South Dakota in 2002, which resulted in no showing of wrongdoing.

The report also points out that, "Over the past two decades, the Republican Party has launched a series of 'ballot security' and 'voter integrity' initiatives which have targeted minority communities. At least three times, these initiatives were successfully challenged in federal courts as illegal attempts to suppress voter participation based on race.

It goes on to describe the numerous instances of voter intimidation and suppression during the 2000 election, the 1990s, the 1980s and back through the civil rights movement of the 1960s, putting current efforts in historical perspective. Describing the chronology of events in this way demonstrates the developing patterns and strategic underpinnings of the tactics used over the last forty years.

The New Poll Tax: Republican-Sponsored Ballot-Security Measures are Being Used to Keep Minorities from Voting

By Laughlin McDonald

McDonald argues that “the discriminatory use of so-called ‘ballot security’ programs” has been a reoccurring scandal since the passage of the Voting Rights Act of 1965. These programs are deceptively presented as preventing voter fraud and thereby furthering good government. However, McDonald states “but far too often they [the ballot security programs] are actually designed to suppress minority voting -- and for nakedly partisan purposes.”

McDonald blames the federal government as well as the states for use of suspect ballot security programs. He cites the implementation of the U.S. Department of Justice’s in “Voting Integrity Initiative” in South Dakota as the worst example of a joint federal-state effort to prevent voter fraud. Alleged voter fraud only in counties with significant Native American populations was targeted. South Dakota Attorney General Mark Barnett “working with the FBI, announced plans to send state and federal agents to question almost 2,000 new Native-American registrants, many of whom were participating in the political process for the first time.” However, statistics show that these efforts only served to increase Native American voter participation. Native Americans “were targeted based on fraud allegations that proved to be grossly exaggerated; at the end of the investigation, only one Native American was even charged with a voting-rules violation.”

McDonald cites several other ballot security efforts that were really disguised attempts at minority voter suppression:

In Pine Bluff, Ark., Democrats accused Republican poll watchers of driving away voters in predominantly black precincts by taking photos of them and demanding identification during pre-election day balloting. Democrats in Michigan charged that a plan by Republicans to station hundreds of “spotters” at heavily Democratic precincts was an effort to intimidate black voters and suppress Democratic turnout. In South Carolina, a lawsuit filed the day before the election alleged that officials in Beaufort County had adopted a new and unauthorized policy allowing them to challenge voters who gave rural route or box numbers for their registration address. According to the complaint, a disproportionate number of those affected by the new rule would be African-American voters who lived in the rural areas of the county.

McDonald is also critical of the Help America Vote Act (HAVA). He states that HAVA “contains other provisions that may enhance the opportunities for harassment and intimidation of minorities through ballot-security programs.” McDonald specifically attacks the photo ID requirement for anyone who registered by mail but has not previously voted. McDonald argues that the ID requirement will suppress minority voting because minorities are less likely than non-minorities to have a photo ID, a photo ID is expensive to obtain and all the alternatives to photo ID present similar obstacles to minority voters. He also argues that there is no evidence that photo ID will combat voter

fraud but it only really provides “another opportunity for aggressive poll officials to single out minority voters and interrogate them.”

McDonald lists some classic past ballot security efforts by the Republicans that have been abused: the 1981 gubernatorial election anti-fraud initiative leading to the well known consent decree prohibiting the Republicans from repeating this, a similar Republican effort in Louisiana in 1986 in Senator John Breaux’s race which again resulted in prohibition by a state court judge, and a similar effort by Republicans in Senator Jesse Helms 1990 reelection. This time the Department of Justice sued the Republican Party and Helm’s reelection committee, resulting in another consent decree prohibiting future ballot security programs without court approval.

McDonald indicates that the crux of the problem is lax enforcement of federal voters rights laws. He states, “there is no record of the purveyors of any ballot-security program being criminally prosecuted by federal authorities for interfering with the right to vote.” The only positive case law McDonald cited was a decision by the United States Court of Appeals for the Eighth Circuit that affirmed “an award of damages ranging from \$500 to \$2,000, payable by individual poll officials to each of seven black voters who had been unlawfully challenged, harassed, denied assistance in voting or purged from the rolls in the town of Crawfordsville [Arkansas].”

McDonald concludes by stating that Congress and the states should adopt “nondiscriminatory, evenly applied measures to ensure the integrity of the ballot.”

An Evaluation: Voter Registration Elections Board: Wisconsin Audit Report 05-12:
September 2005

The Joint Legislative Audit Committee of the Wisconsin Legislature required the Wisconsin Audit Report. The Report obviously does not include the 2006 statistics for statewide voter registration as required by HAVA. Wisconsin voter registration is required by statute in only 172 municipalities---those with populations of 5,000 or more. Another 167 smaller municipalities opted to maintain voter registration lists. Currently, 28.9 % of the voting-age population is not required to register before voting.

According to the Report, great variation was found in the implementation of existing voter registration laws. For example, 46 % of municipalities that responded to the survey did not send address verification cards to individuals who registered by mail or at the polls on Election Day in November 2004.

Further, only 85.3 % of survey respondents reported updating their voter registration lists to remove inactive voters, as required by law.

Current voter registration practices were determined to be insufficient to ensure the accuracy of voter registration lists used by poll workers or to prevent ineligible persons from registering to vote. The Report identified 105 instances of voting irregularities in six municipalities, including 98 ineligible felons who may have voted. The names of these individuals were forwarded to appropriate district attorneys for investigation.

Due to concerns about ineligible voting, stemming from the 2004 election, the Joint Legislative Audit Committee requested that voter registration procedures be evaluated. The following was investigated for this Report:

- * voter registration requirements and the methods by which voters register, including requirements in other states;
- * the address verification process, including the use of address verification cards to confirm the residency of those who register by mail or at the polls;
- * procedures and practices for updating voter registration lists; and,
- * the role of the Elections Board.

Wisconsin allows qualified electors to register in person, by mail, or with a special registration deputy before Election Day, and at the polls on Election Day. In municipalities where registration is required by statute, 20.3 % of Wisconsin voters registered at the polls on Election Day in November 2004. Municipal clerks rely on registrants to affirm their eligibility, including citizenship and age. However, requirements for providing identification or proof of residence vary depending on when an individual registers and by which method.

Address verification cards are the primary tool available to municipal clerks for verifying the residency of registered voters and detecting improper registrations by mail or at the polls. Statutes require that clerks send cards to everyone who registers by mail or on Election Day. However, only 42.7 % of the 150 municipalities surveyed sent cards to both groups, and 46 % did not send any address verification cards.

Statutes also require clerks to provide the local district attorney with the names of any Election Day registrants whose cards are undeliverable at the address provided. However, only 24.3 % of the clerks who sent cards also forwarded names from undeliverable cards to district attorneys. District attorneys surveyed indicated that they require more information than is typically provided to conduct effective investigations.

To ensure that voter registration lists contain only the names of qualified electors, municipal clerks are required by statute to remove or inactivate the names of individuals who have not voted in four years, to update registration information for individuals who move or change their names, and to remove or inactivate the names of deceased individuals. They are also required to notify registered voters before removing their names from registration lists. These statutory requirements are not consistently followed:

* 85.3 % of municipalities removed the names of inactive voters from their voter registration lists;

* 71.4 % sometimes or always notified registered voters before removing their names; and

* 54.0 % reported removing the names of ineligible felons.

Because of such inconsistencies, registration lists contain duplicate records and the names of ineligible individuals. For example, more than 348,000 electronic voter registration records from eight municipalities were reviewed, identifying 3,116 records that appear to show individuals who are registered more than once in the same municipality.

In six municipalities where sufficient information was available, there was 105 instances of potentially improper or fraudulent voting in the 2004 elections. These included: 98 ineligible felons who may have voted; 2 individuals who may have voted twice; 1 voter who may have been underage; and 4 absentee ballots that should not have been counted because the voters who cast them died before Election Day.

Recommendations:

* adjusting the early registration deadline to provide clerks more time to prepare registration lists;

* establishing more stringent requirements for special registration deputies, including prohibiting compensation based on the number of individuals registered;

- * establishing uniform requirements for demonstrating proof of residence for all registrants;
- * providing municipal clerks with more flexibility in the use of address verification cards;
- * Authorizing civil penalties for local election officials and municipalities that fail to comply with election laws; and,
- * implementing mandatory elections training requirements for municipal clerks.

The Report also recognized that the new HAVA registration procedures would help with existing registration problems.

Preliminary Findings of Joint Task Force Investigating Possible Election Fraud: May 10, 2005

On January 26, 2005, the Milwaukee Police Department, Milwaukee County District Attorney's Office, Federal Bureau of Investigation, and the United States Attorney's Office formed a task force to investigate alleged voting irregularities during the November 2004 elections. The purpose of the task force was to determine whether evidence of criminal fraud existed in the irregularities and, if evidence of fraud was found, to pursue criminal prosecutions.

The task force has made the following specific determinations based on evidence examined to date:

- * evidence of more than 100 individual instances of suspected double-voting, voting in names of persons who likely did not vote, and/or voting in names believed to be fake. Those investigations continue;
- * more than 200 felons voted when they were not eligible to do so. In order to establish criminal cases, the government must establish willful violations in individual instances;
- * persons who had been paid to register voters as "deputy registrars" falsely listed approximately 65 names in order to receive compensation for the registrations. The evidence does not indicate that these particular false registrations were later used to cast votes; and,
- * the number of votes counted from the City of Milwaukee exceeds the number of persons recorded as voting by more than 4,500.

The investigation concentrated on the 70,000+ same-day registrations. It found that a large majority of the reported errors were the result of data entry errors, such as street address numbers being transposed. However, the investigation also found more than 100 instances where votes were cast in a manner suggesting fraud. These include:

- * persons with the same name and date of birth recorded as voting more than once;
- * persons who live outside Milwaukee, but who used non-existent City addresses to register and vote in the City;
- * persons who registered and voted with identities and addresses that cannot in any way be linked to a real person;
- * persons listed as voting under a name and identity of a person known to be deceased; and
- * persons whose identities were used to vote, but who in subsequent interviews told task force investigators that they did not, in fact, vote in the City of Milwaukee.

The investigation found persons who were paid money to obtain registrations allegedly falsified approximately 65 names on registration forms, allegedly to obtain more money for each name submitted. There is no evidence gathered to date that votes were cast under these specific false names. Also found were more than 200 felons who were not eligible to vote in the 2004 election, but who are recorded as having done so.

An additional finding of the task force was that the number of votes cast far exceeds the total number of recorded voters. The day after the 2004 election, the City of Milwaukee reported the total number of votes as 277,344. In late November an additional 191 previously uncounted absentee ballots were added, for a total of 277,535 votes cast. Still later, an additional 30 ballots were added, bringing the total number of counted votes to 277,565. City records, however, have been unable to match this total to a similar number of names of voters who cast ballots – either at the polls (under a prior registration or same day registration) or cast absentee ballots. At present, the records show a total of 272,956 voter names – for a discrepancy of 4,609. This part of the investigation was hampered by widespread record keeping errors with respect to recording the number of voters.

In the 2004 election, same-day registrations were accepted in which the card had incomplete information that would help establish identity. For example: 48 original cards for persons listed as voting had no name; 548 had no address; 28 did not have signatures; and another 23 cards had illegible information. These were part of approximately 1,300 same-day registrations for which votes were cast, but which election officials could not authenticate as proper voters within the City. Included in this 1,300 were 141 same-day registrants from addresses outside the City of Milwaukee, but who voted within the City of Milwaukee. In several instances, the voter explicitly listed municipality names other than Milwaukee on the registration cards.

Another record keeping procedure hampering the investigation appears to be the post-election misfiling or loss of original green registration cards that were considered duplicates, but that in fact corresponded to additional votes. These cards were used to record votes, but approximately 100 cards of interest to investigators can no longer be located. In addition, other original green registration cards continue to be found.

A Funny Thing Happened on the Way to the White House by David E. Johnson & Jonny R. Johnson

A Funny Thing Happened adds almost nothing to the present study. It contains no footnotes and no references to primary source material, save what may be able to be gleaned from the bibliography. The Johnsons take a historical look at United States Presidential elections from Andrew Jackson to George Bush by providing interesting stories and other historical information. Unfortunately, there are only three pages out of the entire book that touches on vote fraud in the first Bush election.

The authors assert that the exit polls in Florida were probably correct. The problem was the pollsters had no way of knowing that thousands of votes would be invalidated. But the authors do not believe that fraud was the cause of the tabulation inaccuracy. The major cause was undervotes and overvotes which, if all counted, would have altered the result, compounded by the use of the butterfly ballot in some strategic counties. Additionally, Ralph Nader's votes were primarily a bleed off of needed Gore votes. The authors accused Katherine Harris, then Florida Secretary of State and co-chair of the Bush campaign in Florida for prematurely certifying the state vote. The authors also ridiculed United States Secretary of State James A. Baker III, for using the courts to block attempts to hand count votes. Finally, the authors indicated that a mob of Republican partisans descended on the vote counters in Dade County and effectively stopped the count.

Vote Fraud, Intimidation & Suppression In The 2004 Presidential Election

American Center for Voting Rights Report

According to its website," the American Center For Voting Rights Legislative Fund was founded in February 2005 on the belief that public confidence in our electoral system is the cornerstone of our democracy... ACVR Legislative Fund supports election reform that protects the right of all citizens to participate in the election process free of intimidation, discrimination or harassment and which will make it easy to vote but tough to cheat.

Using court records, police reports and news articles, ACVR Legislative Fund presented this Report documenting hundreds of reported incidents and allegations from around the country. ACVR Legislative Fund found that thousands of Americans were disenfranchised by illegal votes cast on Election Day 2004. For every illegal vote cast and counted on Election Day, a legitimate voter is disenfranchised. This report alleges a coordinated effort by members of some organizations to rig the election system through voter registration fraud, the first step in any vote fraud scheme that corrupts the election process by burying local officials in fraudulent and suspicious registration forms. ACVR Legislative Fund further found that, despite their heated rhetoric, paid Democrat operatives were far more involved in voter intimidation and suppression activities than were their Republican counterparts during the 2004 presidential election.

In addition to recommended changes and a zero-tolerance commitment by the political parties, ACVR Legislative Fund has identified five cities as "hot spots" which require additional immediate attention. These cities were identified based on the findings of this report and the cities' documented history of fraud and intimidation. These cities are: Philadelphia, PA, Milwaukee, WI, Seattle, WA, St. Louis/East St. Louis, MO/IL, and Cleveland, OH.

Without going into great detail in this review, this Report: refutes charges of voter intimidation and suppression made against Republican supporters, discusses similar charges against Democrats, details incidents vote fraud and illegal voting and finally discusses problems with vote fraud, voter registration fraud and election irregularities around the country. The majority of this Report is an attempt to redeem Republicans and vilify Democrats.

In terms of sheer numbers, the report most often alleges voter intimidation and voter registration fraud, and to a lesser degree absentee ballot fraud and vote buying.

The Report presented the following recommendations for future action:

* Both national political parties should formally adopt a zero-tolerance fraud and intimidation policy that commits the party to pursuing and fully prosecuting individuals and allied organizations who commit vote fraud or who seek to deter any eligible voter from participating in the election through fraud or intimidation. No amount of legislative

reform can effectively deter those who commit acts of fraud if there is no punishment for the crime and these acts continue to be tolerated.

- * States should adopt legislation requiring government-issued photo ID at the polls and for any voter seeking to vote by mail or by absentee ballot. Government-issued photo identification should be readily available to all citizens without cost and provisions made to assure availability of government-issued identification to disabled and low-income citizens.
- * States should adopt legislation requiring that all polling places be fully accessible and accommodating to all voters regardless of race, disability or political persuasion and that polling locations are free of intimidation or harassment.
- * States should create and maintain current and accurate statewide voter registration databases as mandated by the federal Help America Vote Act (“HAVA”) and establish procedures to assure that the statewide voter roll is current and accurate and that the names of eligible voters on the roll are consistent with the voter roll used by local election authorities in conducting the election.
- * States should adopt legislation establishing a 30-day voter registration cutoff to assure that all voter rolls are accurate and that all registrants can cast a regular ballot on Election Day and the election officials have opportunity to establish a current and accurate voter roll without duplicate or fictional names and assure that all eligible voters (including all recently registered voters) are included on the voter roll at their proper precinct.
- * States should adopt legislation requiring voter registration applications to be delivered to the elections office within one week of being completed so that they are processed in a timely manner and to assure the individuals registered by third party organizations are properly included on the voter roll.
- * States should adopt legislation and penalties for groups violating voter registration laws, and provide the list of violations and penalties to all registration solicitors. Legislation should require those organizations obtaining a voter’s registration to deliver that registration to election officials in a timely manner and should impose appropriate penalties upon any individual or organization that obtains an eligible voter’s registration and fails to deliver it to election authorities.
- * States should adopt legislation prohibiting “bounty” payment to voter registration solicitors based on the number of registration cards they collect.

America's Modern Poll Tax: How Structural Disenfranchisement Erodes Democracy

Advancement Project

The thesis of the Report, America's Modern Poll Tax, written after the 2000 election, is that structural disenfranchisement—the effect of breakdowns in the electoral system, is the new poll tax. Structural disenfranchisement includes “bureaucratic blunders, governmental indifference, and flagrant disregard for voting rights.” The blame for structural disenfranchisement is laid squarely at the feet of states and localities that “shirk their responsibilities or otherwise manipulate election systems,” resulting in voters “either turned away from the polls or their votes are thrown out.”

The interlocking practices and mechanics that comprise structural disenfranchisement are referred to a “ballot blockers” in the report. Most ballot blockers involve the structural elements of electoral administration: “ill-trained poll workers, failures to process registration cards on time or at all, inaccurate registration rolls, overbroad purges of voter rolls, unreasonably long lines, inaccurate ballot translations and a shortage of translators to assist voters who have limited English language skills.” The Report argues that a culture of indifference overlays these issues that both tolerates and excuses widespread disenfranchisement. This culture of indifference is exemplified by legislatures that do not properly fund election systems, officials that send antiquated equipment into poor and minority areas, poorly translated ballots and polling places that are not wheelchair accessible.

The data and conclusions in the Report are taken from eight sample case studies of states and cities across the country and a survey of state election directors that reinforces the findings of the case studies. Examples of state and city problems were: New York City—in six polling places Chinese translations inverted the Democrats with the Republicans; Georgia—the state computer crashed two weeks before the election, dropping thousands of voters from the rolls; Virginia—registration problems kept an untold number from voting; Chicago—in inner-city precincts with predominately minority populations, almost four out of every ten votes cast for President (in 2000) were discarded; St. Louis—thousands of qualified voters were placed on inactive lists due to an overbroad purge; Florida—a voting list purge of voters whose name and birth date closely resembled those of people convicted of felonies; and, Texas—significant Jim Crow like barriers to minority voting.

The survey of state election directors found: election directors lack the resources to effectively do their jobs and some lack the “ability or will to force local election officials to fix serious problems”; election officials are highly under funded and legislatures refuse to grant their requests for more money; due to a lack of funds, election officials must use old and inferior equipment and can't improve training or meet structural needs; election officials are generally unaware of racial disparities in voting; only three of the 50 state election administrators are non-white.

The Report “concludes that affected communities and democracy advocates should mobilize to force change.” A number of recommendations are made to protect the

electoral franchise including: Federal policies that set nationwide and uniform election policies; federal guarantee of access to provisional ballots; enforcement of voter disability laws; automatic restoration of voting rights to those convicted of a crime after they have completed their sentence; a centralized data base of voters administered by non-partisan individuals; federal standards limiting precinct discarded vote rates to .25 %; federal requirements that jurisdiction provide voter education, including how to protect their right to vote; and laws that strengthen the ability of individuals to bring actions to enforce voting rights and anti-discrimination laws.

Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression – Or Both?

By Chandler Davidson

As the author describes it, this Report focuses on vote suppression through “ballot security programs”:

These are programs that, in the name of protecting against vote fraud, almost exclusively target heavily black, Latino, or Indian voting precincts and have the intent or effect of discouraging or preventing voters in those precincts from casting a ballot. In some cases, these programs have been found by courts to be illegal. Still, they continue to exist in spite of strong criticism by leaders of minority communities, their allies, and voting rights lawyers.

There are several noteworthy characteristics of these programs. They focus on minority precincts almost exclusively. There is often only the flimsiest evidence that vote fraud is likely to be perpetrated in such precincts. In addition to encouraging the presence of sometimes intimidating Republican poll watchers or challengers who may slow down voting lines and embarrass potential voters by asking them humiliating questions, these programs have sometimes posted people in official-looking uniforms with badges and side arms who question voters about their citizenship or their registration. In addition, warning signs may be posted near the polls, or radio ads may be targeted to minority listeners containing dire threats of prison terms for people who are not properly registered—messages that seem designed to put minority voters on the defensive. Sometimes false information about voting qualifications is sent to minority voters through the mail.”

He further states that a most common theme of the programs over the last 50 years is that of sending white challengers to minority precincts. He says that the tactic of doing mailings, collecting returned materials, and using that as a basis for creating challenger lists and challenging voters at the polls, started in the 1950s and continues to today. The problem with this practice is that reasons for a mailing to be returned include a wrong address, out of date or inaccurate addresses, poor mail delivery in minority areas, and matching mistakes. Davidson also sets out to demonstrate through documentary evidence that the practices have been and are approved of or winked at by high ups in the party.

Davidson goes on to provide numerous examples from the last 50 years to demonstrate his thesis, going through the historical development of Republican ballot security programs from the 1950s through to the present. The author cites and quotes internal Republican letters and memoranda, primary sources and original documents, media

reports, scholarly works, as well as the words of judges' rulings in some of the cases that ended up in litigation to prove his argument.

In addition to describing how the schemes really were brought to the fore in the 1964 election, he describes more recent incidents such as 1981 in New Jersey, 1982 Dallas, Louisiana 1986, Houston 1986, Hidalgo 1988 Orange County 1988, North Carolina 1990, South Carolina 1980-1990, and South Dakota 2002. (Summaries of these examples are available)

Davidson concludes with an outline of some of the features of vote suppression efforts put forth by Republicans under the guise of ballot security programs, as described in the Report, from the 1950s to the present day:

1. An organized, often widely publicized effort to field poll watchers in what Republicans call "heavily Democratic," but what are usually minority, precincts;
2. Stated concerns about vote fraud in these precincts, which are occasionally justified but often are not;
3. Misinformation and fear campaigns directed at these same precincts, spread by radio, posted signs in the neighborhoods, newspapers, fliers, and phone calls, which are often anonymously perpetrated;
4. Posting "official-looking" personnel at polling places, including but not limited to off-duty police—sometimes in uniform, sometimes armed;
5. Aggressive face-to-face challenging techniques at the polls that can confuse, humiliate, and intimidate—as well as slow the voting process—in these same minority precincts;
6. Challenging voters using inaccurate, unofficial lists of registrants derived from "do-not-forward" letters sent to low-income and minority neighborhoods;
7. Photographing, tape recording, or videotaping voters; and
8. Employing language and metaphors that trade on stereotypes of minority voters as venal and credulous.

The report ends with some observations on the state of research on the incidence of fraud, which the author finds lacking. He suggests that vote suppression of qualified minority voters by officials and partisan poll-watchers, challengers, and uniformed guards should also be considered as included in any definition of election fraud. Davidson also offers a few recommendations for reform, noting that Democrats should not protest all programs aimed at ballot integrity, but rather work with Republicans to find solutions to problems that confront both parties and the system as a whole.

Analysis of the September 15, 2005 Voter Fraud Report Submitted to the New Jersey Attorney General

By The Brennan Center for Justice at NYU School of Law and Dr. Michael McDonald of George Mason University

General

A September 15, 2005 Report submitted to the New Jersey Attorney General included lists of purportedly illegitimate votes in New Jersey in the 2004 general election, including lists of 10,969 individuals who purportedly voted twice and lists of 4,756 voters who were purportedly dead or incarcerated in November 2004. For the present Analysis of the Report, the lists of voters submitted to the New Jersey Attorney General, as well as a copy of the New Jersey county voter registration files were obtained, and an initial investigation of the report's claims was conducted. The analysis shows that the lists submitted are substantially flawed.

The Analysis is based on methodology only: its authors did not gain access to original documents related to registration or original pollbook records; only recently were copies of the counties' original registration data files acquired and compiled, which contain some notable gaps; and the lists submitted to the Attorney General contain significant errors and little documentation, which complicated the analysis. Nonetheless, the analysts say that information collected is sufficient for generally assessing the quality of evidence presented to support the September 15 report. Analysis of the suspect lists reveals that the evidence submitted does not show what it purports to show: cause for concern that there is serious risk of widespread fraud given the state of the New Jersey voter registration rolls.

These suspect lists were compiled by attempting to match the first name, last name, and birth date of persons on county voter registration files. Entries that supposedly "matched" other entries were apparently deemed to represent the same individual, voting twice. This methodology was similar to the method used in compiling the notoriously inaccurate Florida "purge lists" of suspected ineligible felons in 2000 and 2004. As Florida's experience shows, matching names and birth dates in the voter registration context can easily lead to false conclusions – as was almost certainly the case here.

This Analysis reveals several serious problems with the methodology used to compile the suspect lists that compromise the lists' practical value. For example, the data used in the Report from one county appears to be particularly suspect and anomalous, and may have substantially skewed the overall results. In addition, middle initials were ignored throughout all counties, so that "J _____ A. Smith" was presumed to be the same person as "J _____ G. Smith." Suffixes were also ignored, so that fathers and sons – like "B _____ Johnson" and "B _____ Johnson, Jr." – were said to be the same person.

Underlying many of the entries on these lists, and similar lists compiled in Florida and elsewhere, is a presumption that two records with the same name and date of birth must

represent the same person. As *explained* in this analysis, this presumption is not consistent with basic statistical principles. Even when votes appear to have been cast in two different cities under the same name and birth date, statistics show that voter fraud is not necessarily to blame. With 3.6 million persons who voted in the 2004 election in New Jersey, the chance that some have the same name and birth date is not far-fetched.

Analysis of the Claim of Double Voting by 4,497 Individuals

Attempts to match data on one list to data on another list will often yield “false positives:” two records that at first appear to be a match but do not actually represent the same person. The natural incidence of “false positives” for a matching exercise of this scale – especially when, as here, conducted with relatively little attention to detail – readily explains the ostensible number of double votes.

1,803 of these 4,397 records of ostensibly illegal votes seem to be the product of a glitch in the compilation of the registration files. These records reflect two registration entries by the same person from the same address, with a notation next to each that the individual has voted. For example, 55-year-old W_____ A. Connors, living at 253 B_____ Ave. in a New York commuter suburb, is listed on the data files with an (erroneous) first registration date in 1901 and a second registration date in 1993; Mr. Connors is thus represented twice on the data files submitted. Each of these entries also indicates that W_____ A. Connors at 253 B_____ Ave voted in 2004. There is no credible indication, however, that Mr. Connors actually voted twice; indeed, given the clearly erroneous registration date on the files, it is far more likely that data error is to blame for the doubly logged vote as well.

More plausibly, the bulk of these 1,803 records may be traced to irregularities in the data processing and compilation process for one single county: the Middlesex County registration file accounts for only 10% of registered voters in the state but 78% of these alleged double votes. The suspect lists themselves contain an acknowledgment that the problem in Middlesex is probably not fraud: 99% of these Middlesex voters are labeled on the lists submitted to the Attorney General with a notation that the record is “less likely” to indicate an illegal double vote.

Another 1,257 entries of the 4,397 records probably represent similar data errors – also largely driven by a likely glitch in the Middlesex County file, which is also vastly over represented in this category. These records show ever-so-slight variations in records listed with the same date of birth at the same address: for example, the same first and last names, but different middle initials or suffixes (e.g., J_____ T. Kearns, Sr., and J_____ T. Kearns, Jr., both born the same day and living at the same address; or J_____ E. Allen and J_____ P. Allen, born the same day and living at the same address).

Approximately 800 of the entries on the list likely represent different people, with different addresses and different middle initials or suffixes. For example, W_____ S. Smith, living in a northern New Jersey town, and W_____ C. Smith, living in another town two hours away, share the same date of birth but are not the same person. Nor are

T_____ Brown, living in a New York commuter suburb, and T_____ H. Brown, Jr., living in a small town over an hour west, despite the fact that they also share the same birth date. About three-quarters of the entries in this category reveal data that affirmatively conflict – for example, a middle initial (“W_____ S.”) in one case, and a different middle initial (“W_____ C.”) in another, listed at different addresses. There is absolutely no good reason to conclude that these individuals are in fact the same, when the available evidence indicates the contrary.

For approximately 200 of the entries in this category, however, less information is available. These entries show a middle initial (“J_____ W. Davis”) in one case, and no middle initial (“J_____ Davis”) in another – again, at different addresses. The lack of the middle initial is ambiguous: it could mean that one of the J_____ Davis in question has no middle name, or it could mean that the middle initial was simply omitted in a particular registration entry. Although these entries involve less conclusive affirmative evidence of a false match than the entries noted above, there is still no good reason to believe that “J_____ W. Davis” and “J_____ Davis,” at different addresses, represent the same person.

Of the individuals remaining, there are serious concerns with the accuracy of the dates of birth. Seven voters were apparently born in January 1, 1880 – which is most likely a system default for registrations lacking date-of-birth information. For 227 voters, only the month and year of birth are listed: this means only that two voters with the same name were born in the same month and year, an unsurprising coincidence in a state of several million people.

That leaves approximately 289 votes cast under the same name and birth date – like votes cast by “P_____ S. Rosen,” born in the middle of the baby boom – but from two different addresses. It may appear strange, but there may be two P_____ S. Rosens, born on the same date in 1948 – and such coincidences are surprisingly common. For any one person, the odds of someone else having the same name and birth date is small. But because there are so many voters in New Jersey, a sizable number will have the same name and birth date simply by chance. In a group of just 23 people, it is more likely than not that two will share the same birthday. For 40 people, the probability is 90%. Many, if not most, of the 289 alleged double votes of persons registered at different addresses most likely reflect two separate individuals sharing a first name, last name, middle initial, and birth date.

The September 15 Report makes much of the raw potential for foul play based on the unsurprising fact that there are voters who appear on the New Jersey registration rolls more than once. As noted above, many of the names identified reflect two different individuals and not simply duplicate entries. But there is no doubt that there are duplicate entries on New Jersey’s registration rolls. It is well known that voter registration rolls contain “deadwood” – registration entries for individuals no longer living at a given address or deceased. There is no evidence, however, that these extra registrations are used for widespread illegal voting. Moreover, the problem of deadwood will soon be largely resolved: both the National Voter Registration Act of 1993 and the Help America

Vote Act of 2002 require states to implement several systems and procedures as of January 1, 2006, that will clean the voter rolls of duplicate or invalid entries while protecting eligible voters from unintended disfranchisement.

Response to the Report of the 2005 Commission on Federal Election Reform

**By The Brennan Center for Justice at NYU School of Law and Spencer Overton,
Commissioner and Law Professor at George Washington University School of Law**

Introduction

On September 19, 2005, the Commission on Federal Election Reform, co-chaired by former President Jimmy Carter and former Secretary of State James Baker III, issued a report with recommendations for reforming the administration of U.S. elections. This Response addresses the main substantive flaws in the Report, refuting in detail its recommendations that “Real ID” cards be used for voter identification, that Social Security numbers be spread through interstate databases and on ID cards, and that states restore voting rights to people convicted of felony convictions only in certain cases and only after they have completed all the terms of their sentence.

Voter Identification Recommendation

According to the Response, the Report’s most troubling recommendation is that states require voters to present a Real ID card or a similar “template” ID as a condition of voting. This recommendation is more onerous than the photo ID proposal rejected by the Commission’s predecessor in 2001 and is more restrictive than any ID requirement adopted in any state to date. It would impose substantial – and for some, insurmountable – burdens on the right to vote. This ID requirement is purportedly intended to prevent “voter fraud,” and yet the Report itself concedes that “[t]here is no evidence of extensive fraud in U.S. elections or of multiple voting” before asserting, without any meaningful support, that “both occur.” Not only does the Report fail to justify the creation of stringent identification requirements, but it also does not explain why the goals of improved election integrity will not be met through the existing provisions in the Help America Vote Act of 2002 (HAVA). Additionally, the Report fails to consider alternative measures to advance its goals that are less restrictive to voters.

The Commission’s recommendation that eligible citizens be barred from voting unless they are able to present a souped-up “Real ID” card is a proposal guaranteed to disenfranchise a substantial number of eligible voters. Millions of Americans currently do not have driver’s licenses or government-issued photo ID cards. As the 2001 National Commission on Federal Election Reform recognized, research shows that between six and ten percent of voting-age Americans do not have driver’s licenses or state-issued non-driver’s photo ID. That translates into as many as 20 million eligible voters. Millions more may never get the new Real ID card, which requires substantially more cost and effort. The percentage of Americans without the documentary proof of citizenship necessary to obtain Real IDs is likely to remain high because, as discussed below, the requisite documents are both expensive and burdensome to obtain. The Report’s proposal to use Real ID as a condition of voting is so excessive that it would prevent eligible voters from proving their identity with even a valid U.S. passport or a U.S. military photo ID card. While Americans of all backgrounds would be excluded by the Report’s ID proposal, the burden would fall disproportionately on the elderly, the disabled, students, the poor, and people of color.

According to the Georgia chapter of the AARP, 36 percent of Georgians over age 75 do not have a driver's license. In Wisconsin, approximately 23 percent of persons aged 65 and older do not have driver's licenses or photo ID, and fewer than 3 percent of students have driver's licenses listing their current address. Across the country, more than 3 million Americans with disabilities do not have a driver's license or other form of state-issued photo ID. Moreover, given the frequency with which Americans move residences, it is likely that a far greater percentage of citizens lack driver's licenses or photo IDs bearing their current addresses. Since voting generally depends on the voter's address, and since many states will not accept IDs that do not bear an individual's current voting address, an additional 41.5 million Americans each year will have ID that they may not be able to use to vote.

As the Report recognizes, government-issued photo identification costs money. Thus, if required as a precondition for voting, photo identification would operate as a de facto poll tax that could disenfranchise low-income voters. To alleviate this burden, the Report appropriately recommends that the "Real ID" card itself be issued free of charge. This safeguard, however, does not address some of the most significant predicate costs in obtaining photo identification – costs incurred whether or not the card itself is free. First, each of the documents an individual is required to show in order to obtain a "Real ID" card or other government-issued photo ID card costs money or presumes a minimal level of economic resources. A certified copy of a birth certificate costs from \$10.00 to \$45.00, depending on the state; a passport costs \$85.00; and certified naturalization papers cost \$19.95. Unless the federal and all state governments waive the cost of each of these other forms of identification, the indirect costs of photo IDs will be even greater than their direct costs. In addition, since government-issued IDs may only be obtained at specified government offices, which may be far from voters' residences and workplaces, individuals seeking such IDs will have to incur transportation costs and the costs of taking time off from work to visit those offices during often-abbreviated business hours. These are not insignificant burdens.

Strong empirical evidence also shows that photo ID requirements disproportionately burden people of color. The ID recommendations reduce the benefits of voter registration at disability and other social service agencies provided by the National Voter Registration Act of 1993. Individuals who seek to register at those offices—which generally do not issue IDs – will also have to make an additional visit to the motor vehicle department in order to obtain the documentation necessary to vote. Census data demonstrate that African Americans and Latinos are more than three times more likely than whites to register to vote at a public assistance agency, and that whites are more likely than African Americans and Latinos to register when seeking a driver's license. Accordingly, the voter registration procedure far more likely to be used by minorities than by whites will no longer provide Americans with full eligibility to vote. Not only are minority voters less likely to possess the requisite ID, but they are also more likely than white voters to be asked to furnish ID at the polls. As the Task Force Report of the prior Commission found, identification requirements create the opportunity for selective enforcement – either innocuous or invidious – when poll workers request photo ID only from voters

unknown to them. This discretion has often led to special scrutiny of minority voters at the polls.

Faced with overwhelming evidence that Real IDs are both costly and difficult to obtain, the Report suggests that Real ID cards be made “easily available and issued free of charge.” While this is a laudable goal, the evidence suggests that it will not be attained. First, no State currently issues photo IDs free of charge to all voters. And even if the card itself were free, the Real ID would not be “free of charge” unless all documents required to obtain the Real ID were also “free of charge.” In addition, no State makes photo IDs “easily available” to all its citizens.

The Report premises its burdensome identification proposals on the need to ensure ballot integrity and on the existence of or potential for widespread fraud. However, the Report admits that there is simply “no evidence” that the type of fraud that could be solved by stricter voter identification – individual voters who misrepresent their identity at the polls – is a widespread problem. Indeed, the evidence that does exist shows that this sort of fraud occurs only at an extremely low rate. The Report’s photo ID proposal guards against only one type of fraud: individuals arriving at the polls to vote using false information, such as the name of another registered voter, or a recent but not current address. Since the costs of this form of fraud are extremely high (federal law provides for up to five years’ imprisonment), and the benefits to any individual voter are extremely low, it is highly unlikely that this will ever occur with any frequency. The limited types of fraud that could be prevented by a Real ID requirement are extremely rare and difficult. As the Report concedes, there is “no evidence of extensive fraud in U.S. elections” of the sort that can be cured by photo identification requirements. This admission – and not the hypothetical specter of fraud represented in the remainder of the Report – is amply borne out by independent research.

In the most comprehensive survey of alleged election fraud to date, Professor Loraine Minnite and David Callahan have shown that the incidence of individual voter fraud at the polls is negligible. A few prominent examples support their findings. In Ohio, a statewide survey found four instances of ineligible persons voting or attempting to vote in 2002 and 2004, out of 9,078,728 votes cast – a rate of 0.00004%. Earlier this year, Georgia Secretary of State Cathy Cox stated that she could not recall one documented case of voter fraud relating to the impersonation of a registered voter at the polls during her ten-year tenure as Secretary of State or Assistant Secretary of State. The Report attempts to support its burdensome identification requirements on four specific examples of purported fraud or potential fraud. **None of the Report’s cited examples of fraud stand up under closer scrutiny.** This response report goes through each instance of fraud raised by the Commission report and demonstrates that in each case the allegation in fact turned out later not to be true or the fraud cited was not of the type that would be addressed by a photo identification requirement.

The Report fails to provide a good reason to create greater hurdles for voters who vote at the polls than for those who vote absentee. Despite the fact that absentee ballots are more

susceptible to fraud than regular ballots, the Report exempts absentee voters from its proposed Real ID and proof of citizenship requirements.

To the extent that any limited fraud by individuals at the polls does trickle into the system, it can be addressed by far less restrictive alternatives. The first step is to recognize that only voters who appear on the registration list may vote a regular ballot. Proper cleaning of registration lists – and proper use of the lists at the poll–will therefore go a long way toward ensuring that every single ballot is cast by an eligible voter. Existing law has already accounted for this need – with proper safeguards for individual voters – and needs only adequate implementation. If inflated rolls create the specter of potential fraud, for example, the problem will be addressed by proper execution of the registration list related provisions of NVRA and HAVA, which are designed in part to remove ineligible voters from the rolls. In addition to the better registration lists that full implementation will provide, better record keeping and administration at the polls will reduce the limited potential for voting by ineligible persons. In the unlikely event that implementation of current law is not able to wipe out whatever potential for individual fraud remains, there are several effective and less burdensome alternatives to the Report’s Real ID recommendation that received wholly insufficient consideration.

Recommendation on Database Information Sharing Across States

It is unquestionably beneficial to account for voters who move across state lines. Nonetheless, the Report fails to consider the serious efficacy, privacy, and security concerns raised by a nationally distributed database of the magnitude it contemplates. These problems are exacerbated by the Report’s recommendation that an individual’s Social Security number be used as the broadly disseminated unique voting identifier. The Report’s recommendation creates substantial privacy and security hazards. The Report recommends –without any discussion–that the information used as an individual’s unique fingerprint to track a voter across state lines include not merely the date of birth, but also the person’s “place of birth.” As with the Social Security number, this information is often used as a key to private information wholly unrelated to voting, and as such, disclosure presents a substantial security hazard. Moreover, this information seems particularly susceptible to use in harassing legitimate voters, particularly naturalized citizens.

Recommendation on Voting Rights of Ex-Felons

The Report recommends that states restore voting rights only to certain people with criminal convictions, and only after they have “fully served their sentence.” This overly restrictive standard places the Commission out of step with the states, the American public, and the laws of other nations. This recommendation would set a standard more generous than the policies of the most regressive thirteen states in the nation but more restrictive than the remaining thirty-seven. The trend in the states is toward extension of the franchise. Since 1997, twelve states have reformed their laws or policies to allow more people with convictions to vote. These reforms are driven by some startling numbers. Approximately 4.7 million Americans have lost the right to vote because of a criminal conviction. This number includes 1.4 million African-American men, whose 13% rate of disenfranchisement is seven times the national average. More than 670,000

of the disenfranchised are women; more than 580,000 are veterans; and 1.7 million have completed their sentences.

The American people also support more generous re-enfranchisement than the Commission Report recommends. In a 2002 telephone survey of 1,000 Americans nationwide, researchers found that substantial majorities (64% and 62% respectively) supported allowing probationers and parolees to vote. Fully 80% favored restoring the franchise to people who had completed felony sentences. Even when questions were asked about certain unpopular offenses, majorities supported voting rights. Two-thirds of respondents supported allowing violent ex-felons to vote; 63% supported allowing ex-felons convicted of illegal stock-trading to vote; and 52% supported restoring the franchise to ex-felons who had been convicted of a sex crime. International norms are even more favorable to voting rights. Moreover, the Report's recommendation is unworkable. The general rule – that reenfranchisement should follow the completion of a criminal sentence – is itself difficult to administer.

Building Confidence in U.S. Election, National Commission on Federal Election Reform
("Carter/Baker Commission)

The impetus for the Carter-Baker Commission and its report was the sense of the members that not enough had been done to reform the system since the 2000 election and that Americans had lost confidence in elections. The report makes several observations about the current system and makes 87 recommendations. Several of those recommendations are meant to be implemented in conjunction with one another in order to be effective, so the report is really a push for a comprehensive overhaul of the system as it works today.

Among the observations made that are relevant to the EAC study of fraud and intimidation are the following:

- The November 2004 elections showed that irregularities and fraud still occur.
- Failure to provide voters with such basic information as their registration status and their polling site location raises a barrier to voting as significant as inconsistent procedures on provisional ballots or voter ID requirements.
- There is no evidence of extensive fraud in U.S. elections or of multiple voting, but both occur, and it could affect the outcome of a close election.
- The Commission is concerned that the different approaches to identification cards might prove to be a serious impediment to voting.
- Voter registration lists are often inflated by the inclusion of citizens who have moved out of state but remain on the lists. Moreover, under the National Voter Registration Act, names are often added to the list, but counties and municipalities often do not delete the names of those who moved. Inflated voter lists are also caused by phony registrations and efforts to register individuals who are ineligible. At the same time, inaccurate purges of voter lists have removed citizens who are eligible and are properly registered.
- Political party and nonpartisan voter registration drives generally contribute to the electoral process by generating interest in upcoming elections and expanding participation. However, they are occasionally abused. There were reports in 2004 that some party activists failed to deliver voter registration forms of citizens who expressed a preference for the opposing party.
- Vote by mail raises concerns about privacy, as citizens voting at home may come under pressure to vote for certain candidates, and it increases the risk of fraud.
- While election fraud is difficult to measure, it occurs. The U.S. Department of Justice has launched more than 180 investigations into election fraud since October 2002. These investigations have resulted in charges for multiple voting, providing false information on their felon status, and other offenses against 89 individuals and in convictions of 52 individuals. The convictions related to a variety of election fraud offenses, from vote buying to submitting false voter registration information and voting-related offenses by non-citizens. In addition to the federal investigations, state attorneys general and local prosecutors handle cases of election fraud. Other cases are never pursued because of the difficulty in

obtaining sufficient evidence for prosecution or because of the low priority given to election fraud cases.

- Absentee ballots remain the largest source of potential voter fraud
- Non-citizens have registered to vote in several recent elections
- The growth of "third-party" (unofficial) voter registration drives in recent elections has led to a rise in reports of voter registration fraud.
- Many states allow the representatives of candidates or political parties to challenge a person's eligibility to register or vote or to challenge an inaccurate name on a voter roll. This practice of challenges may contribute to ballot integrity, but it can have the effect of intimidating eligible voters, preventing them from casting their ballot, or otherwise disrupting the voting process.

Its pertinent recommendations for reform are as follows:

- Interoperable state voter databases are needed to facilitate updates in the registration of voters who move to another state and to eliminate duplicate registrations, which are a source of potential fraud.
- Voters should be informed of their right to cast a provisional ballot if their name does not appear on the voter roll, or if an election official asserts that the individual is not eligible to vote, but States should take additional and effective steps to inform voters as to the location of their precinct
- The Commission recommends that states use "REAL ID" cards for voting purposes.
- To verify the identity of voters who cast absentee ballots, the voter's signature on the absentee ballot can be matched with a digitized version of the signature that the election administrator maintains. While such signature matches are usually done, they should be done consistently in all cases, so that election officials can verify the identity of every new registrant who casts an absentee ballot.
- Each state needs to audit its voter registration files to determine the extent to which they are accurate (with correct and current information on individuals), complete (including all eligible voters), valid (excluding ineligible voters), and secure (with protections against unauthorized use). This can be done by matching voter files with records in other state agency databases in a regular and timely manner, contacting individuals when the matches are inconclusive, and conducting survey research to estimate the number of voters who believe they are registered but who are not in fact listed in the voter files.
- Each state should oversee political party and nonpartisan voter registration drives to ensure that they operate effectively, that registration forms are delivered promptly to election officials, that all completed registration forms are delivered to the election officials, and that none are "culled" and omitted according to the registrant's partisan affiliation. Measures should also be adopted to track and hold accountable those who are engaged in submitting fraudulent voter registrations. Such oversight might consist of training activists who conduct voter registration drives and tracking voter registration forms to make sure they are all accounted for. In addition, states should apply a criminal penalty to any activist who deliberately fails to deliver a completed voter registration form.

- Investigation and prosecution of election fraud should include those acts committed by individuals, including election officials, poll workers, volunteers, challengers or other nonvoters associated with the administration of elections, and not just fraud by voters.
- In July of even-numbered years, the U.S. Department of Justice should issue a public report on its investigations of election fraud. This report should specify the numbers of allegations made, matters investigated, cases prosecuted, and individuals convicted for various crimes. Each state's attorney general and each local prosecutor should issue a similar report.
- The U.S. Department of Justice's Office of Public Integrity should increase its staff to investigate and prosecute election-related fraud.
- In addition to the penalties set by the Voting Rights Act, it should be a federal felony for any individual, group of individuals, or organization to engage in any act of violence, property destruction (of more than \$500 value), or threatened act of violence that is intended to deny any individual his or her lawful right to vote or to participate in a federal election.
- To deter systemic efforts to deceive or intimidate voters, the Commission recommends federal legislation to prohibit any individual or group from deliberately providing the public with incorrect information about election procedures for the purpose of preventing voters from going to the polls.
- States should define clear procedures for challenges, which should mainly be raised and resolved before the deadline for voter registration. After that, challengers will need to defend their late actions. On Election Day, they should direct their concerns to poll workers, not to voters directly, and should in no way interfere with the smooth operation of the polling station.
- State and local jurisdictions should prohibit a person from handling absentee ballots other than the voter, an acknowledged family member, the U.S. Postal Service or other legitimate shipper, or election officials. The practice in some states of allowing candidates or party workers to pick up and deliver absentee ballots should be eliminated.
- All states should consider passing legislation that attempts to minimize the fraud that has resulted from "payment by the piece" to anyone in exchange for their efforts in voter registration, absentee ballot, or signature collection.
- Nonpartisan structures of election administration are very important, and election administrators should be neutral, professional, and impartial.
- No matter what institutions are responsible for conducting elections, conflict-of-interest standards should be introduced for all federal, state, and local election officials. Election officials should be prohibited by federal and/or state laws from serving on any political campaign committee, making any public comments in support of a candidate, taking a public position on any ballot measure, soliciting campaign funds, or otherwise campaigning for or against a candidate for public office. A decision by a secretary of state to serve as co-chair of his or her party's presidential election committee would clearly violate these standards.

A 'Crazy-Quilt' of Tiny Pieces: State and Local Administration of American Criminal Disenfranchisement Law

By Alec Ewald

"A Crazy-Quilt of Tiny Pieces" presents results from the first nationwide study to document the implementation of American felony disenfranchisement law. Data came from two main sources: a 33-state survey of state elections officials and telephone interviews with almost one hundred city, county, town, and parish officials drawn from 10 selected states. In the spring of 2004, a two-page survey consisting of questions regarding disqualification and restoration procedures was sent to the offices of the statewide elections director in each of the fifty states. Responses were collected through the summer and early fall of 2004. Thirty-three states responded. No state currently administers and enforces its criminal disqualification and restoration laws in an efficient, universally-understood and equitable way. Some do not appear to notify local elections officials of convictions, or do not do so in a clear and timely way; others risk "false positives" in disqualification, particularly with suspended sentences or offenses not subject to disenfranchisement; many ask local officials to handle disqualification and restoration with little or no guidance or supervision from the state; none have clear policies regarding new arrivals from other states with old convictions.

The report reaches seven major conclusions:

1. Broad variation and misunderstanding in interpretation and enforcement of voting laws:

- More than one-third (37%) of local officials interviewed in ten states either described their state's fundamental eligibility law incorrectly, or stated that they did not know a central aspect of that law.

- Local registrars differ in their knowledge of basic eligibility law, often within the same state. Differences also emerge in how they are notified of criminal convictions, what process they use to suspend, cancel, or "purge" voters from the rolls, whether particular documents are required to restore a voter to eligibility, and whether they have information about the criminal background of new arrivals to the state.

2. Misdemeanants disenfranchised in at least five states:

- The commonly-used term "felon disenfranchisement" is not entirely accurate, since at least five states – Colorado, Illinois, Michigan, South Carolina, and Maryland -- also formally bar some or all people convicted of misdemeanors from voting.

- It is likely that misdemeanants in other states who do retain the formal right to vote could have difficulty exercising that right, given ignorance of their eligibility and the lack of clear rules and procedures for absentee voting by people in jail who have not been convicted of a felony.

- Maryland excludes persons convicted of many misdemeanors, such as "Unlawful operation of vending machines," "Misrepresentation of tobacco leaf weight," and "Racing horse under false name."

3. Significant ambiguities in voting laws:

- Disenfranchisement in Tennessee is dependent on which of five different time periods a felony conviction occurred between 1973 and the present.

- In Oregon, disenfranchisement is determined not by conviction or imprisonment for a felony, but for being placed under Department of Corrections supervision. Since 1997, some persons

convicted of a felony and sentenced to less than 12 months' custody have been sent to county jails and hence, are eligible to vote.

4. Disenfranchisement results in contradictory policies within states:

- The “crazy-quilt” pattern of disenfranchisement laws exists even within states. Alabama and Mississippi have both the most and least restrictive laws in the country, a result which is brought about by the fact that certain felonies result in the loss of voting rights for life, while others at least theoretically permit people in prison to vote.
- Most felonies in Alabama result in permanent disenfranchisement, but drug and DUI offenses have been determined to not involve the “moral turpitude” that triggers the loss of voting rights.
- In Mississippi, ten felonies result in disenfranchisement, but do not include such common offenses as burglary and drug crimes.

5. Confusing policies lead to the exclusion of legal voters and the inclusion of illegal voters:

- The complexity of state disenfranchisement policies results in frequent misidentification of voter eligibility, largely because officials differ in their knowledge and application of disqualification and restoration law and procedures.

6. Significant variation and uncertainty in how states respond to persons with a felony conviction from other states:

- No state has a systematic mechanism in place to address the immigration of persons with a felony conviction, and there is no consensus among indefinite-disenfranchisement states on whether the disqualification is properly confined to the state of conviction, or should be considered in the new state of residence.
- Interpretation and enforcement of this part of disenfranchisement law varies not only across state lines, but also from one county to another within states. Local officials have no way of knowing about convictions in other states, and many are unsure what they would do if a would-be voter acknowledged an old conviction. Because there is no prospect of a national voter roll, this situation will continue even after full HAVA implementation.

7. Disenfranchisement is a time-consuming, expensive practice:

- Enforcement requires elections officials to gather records from different agencies and bureaucracies, including state and federal courts, Departments of Corrections, Probation and Parole, the state Board of Elections, the state police, and other counties' elections offices.

Policy Implications

1. Policies disenfranchising people living in the community on probation or parole, or who have completed a sentence are particularly difficult to enforce:

- States which disenfranchise only persons who are currently incarcerated appear able to enforce their laws more consistently than those barring non-incarcerated citizens from voting.

2. Given large-scale misunderstanding of disenfranchisement law, many eligible persons incorrectly believe they cannot vote, or have been misinformed by election officials:

- More than one-third of election officials interviewed incorrectly described their state's law on voting eligibility.
- More than 85% of the officials who misidentified their state's law either did not know the eligibility standard or specified that the law was more restrictive than was actually the case.

3. Occasional violation of disenfranchisement law by non-incarcerated voters not surprising:

- Given the complexity of state laws and the number of state officials who lack an understanding of restoration and disqualification procedures, it should come as no surprise that many voters are ignorant of their voting status, a fact that is likely to have resulted in hundreds of persons with a felony conviction registering and voting illegally in recent years.

4. Taken together, these findings undermine the most prominent rationale for disenfranchisement: that the policy reflects a strong, clear consensus that persons with a felony conviction are unfit to vote and constitute a threat to the polity:

- First, when significant numbers of the people who administer elections do not know important aspects of disenfranchisement law, it is hard to conclude that the restriction is necessary to protect social order and the “purity” of the ballot box.
- Second, because they are all but invisible in the sentencing process, “collateral” sanctions like disenfranchisement simply cannot accomplish the denunciatory, expressive purposes their supporters claim. We now know that disenfranchisement is not entirely “visible” even to the people running American elections.
- Third, deep uncertainty regarding the voting rights of people with felony convictions who move from one state to another indicates that we do not even know what purpose disenfranchisement is supposed to serve – whether it is meant to be a punishment, or simply a non-penal regulation of the franchise.

Recommendations

1. Clarify Policies Regarding Out-of-State Convictions:

- State officials should clarify their policies and incorporate into training programs the means by which a felony conviction in another state affects an applicant’s voting eligibility. For example, sentence-only disenfranchisement states should clarify that newcomers with old felony convictions from indefinite disenfranchisement states are eligible to vote. And those states which bar some people from voting even after their sentences are completed must clarify whether new arrivals with old felony convictions from sentence-only disenfranchisement states are automatically eligible, and must explain what procedures, if any, should be followed for restoration.

2. Train Election Officials:

- Clarify disenfranchisement policies and procedures for all state and local election officials through development of materials and training programs in each state. At a minimum, this should include distribution of posters, brochures and FAQ sheets to local and state elections offices.

3. Train Criminal Justice Officials:

- Provide training on disqualification and restoration policies for all correctional and criminal justice officials, particularly probation and parole staff. Correctional and criminal justice officials should also be actively engaged in describing these policies to persons under criminal justice supervision.

4. Review Voting Restrictions on Non-Incarcerated People:

- Given the serious practical difficulty of enforcing laws disqualifying people who are not incarcerated from voting – problems which clearly include both excluding eligible people from voting and allowing those who should be ineligible to vote -- state policymakers should review such policies to determine if they serve a useful public purpose.

Deliver the Vote: A History of Election Fraud, An American Political Tradition---1742-2004

by Tracy Campbell.

In Deliver the Vote, Campbell traces the historical persistence of voter fraud from colonial times through the 2004 Bush-Kerry election. From the textual information, it quickly becomes obvious that voter fraud was not limited to certain types of people or to certain political parties. Major American political figures fail to emerge unscathed. For instance, before independence, George Washington plied potential voters with drink as payment for their vote. This type of early vote buying succeeded in electing Washington to the Virginia Assembly over a heavily favored candidate. Both the Democrat and Republican Parties also participated in vote fraud. Finally, there were several regions of the country know for fraudulent voting problems such as Chicago, St. Louis, Texas, and Kentucky, especially Louisville.

Germane to the voter fraud project, Campbell indicates that in the Bush-Gore election, both camps committed major errors. Campbell contends that the central problem in that election was the 175,000 invalidated votes. It is evident that Florida was procedurally unprepared to deal with the voluminous questions that arose in determining valid from invalid votes. Campbell glosses over the Bush-Kerry election but does note from one who opposed Kerry, that there was something amiss with the Ohio final vote tally. This book is well researched and provided numerous citations to source material.

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Democracy At Risk: The November 2004 Election in Ohio
Democratic National Committee

In December 2004, the DNC announced a comprehensive investigative study and analysis of election administration issues arising from the conduct of the 2004 general election in Ohio. The DNC decided to undertake this study because of the many reports, made to the Democratic Party, appearing in the press and made to advocacy groups, immediately after the election, of problems in the administration of the election in that state—problems that prevented many Ohio citizens who showed up at the polls to be able to vote and to have their vote counted. This study was intended to address the legitimate questions and concerns that have been raised and to develop factual information that would be important and useful in crafting further necessary election reforms.

Most Pertinent Findings

- Overall, 28 percent of Ohio voters reported problems with their voting experience, including ballot problems, locating their proper polling place and/or intimidation.
- Twice as many African American voters as white voters reported experiencing problems at the polls (52 percent vs. 25 percent).
- Scarcity of voting machines caused long lines that deterred many people from voting. Three percent of voters who went to the polls left their polling places and did not return due to the long lines.
- Statewide, African American voters reported waiting an average of 52 minutes before voting while white voters reported waiting an average of 18 minutes.
- Overall, 20 percent of white Ohio voters reported waiting more than twenty minutes, while 44 percent of African American voters reported doing so.
- Of provisional voters in Cuyahoga County, 35 percent were African American, compared to 25 percent of non-provisional voters, matched by geography. African American voters were 1.2 times more likely than white voters to be required to vote provisionally.
- Under Ohio law, the only voters who should have been asked for identification were those voting in their first Federal election who had registered by mail but did **not** provide identification in their registration application. Although only 7 percent of all Ohio voters were newly registered (and only a small percentage of those voters registered by mail and failed to provide identification in their registration application), more than one third (37 percent) reported being asked to provide identification.—meaning large numbers of voters were illegally required to produce identification.
- African American voters statewide were 47 percent more likely to be required to show identification than white voters. Indeed, 61 percent of

African American men reported being asked to provide identification at the polls.

- 6 percent of all voters reported feelings of intimidation.
- Statewide, 16 percent of African Americans reported experiencing intimidation versus only 5 percent of white voters.

The report also includes a useful summary and description of the reports that came through Ohio Election Protection on Election Day, which included a wide variety of problems, including voter intimidation and discrimination.

Most Pertinent Recommendations

- States should be encouraged to codify into law all required election practices, including requirements for the adequate training of official poll workers.
- States should adopt uniform and clear published standards for the distribution of voting equipment and the assignment of official pollworkers among precincts, to ensure adequate and nondiscriminatory access. These standards should be based on set ratios of numbers of machines and pollworkers per number of voters expected to turn out, and should be made available for public comment before being adopting.
- States should adopt legislation to make clear and uniform the rules on voter registration.
- States should be urged to implement statewide voter lists in accordance with the Help America Vote Act (“HAVA”), the election reform law enacted by Congress in 2002 following the Florida debacle.
- State and local jurisdictions should adopt clear and uniform rules on the use of, and the counting of, provisional ballots, and distribute them for public comment well in advance of each election day.
- States should not adopt requirements that voters show identification at the polls, beyond those already required by federal law (requiring that identification be shown only by first time voters who did not show identification when registering.)
- State Attorneys General and local authorities should vigorously enforce, to the full extent permitted by state law, a voter’s right to vote without showing identification.
- States should make voter suppression a criminal offense at the state level, in all states.
- States should improve the training of pollworkers.
- States should expend significantly more resources in educating voters on where, when and how to vote.
- Partisan officials who volunteer to work for a candidate should not oversee or administer any elections.

DOJ Public Integrity Reports 2002, 2003, and 2004

General Background

The Public Integrity Reports are submitted to Congress pursuant to the Ethics in Government Act of 1978, which requires the Attorney General to report annually to Congress on the operations and activities of the Justice Department's Public Integrity Section. The Report describes the activities of the Public Integrity Section. It also provides statistics on the nationwide federal effort against public corruption. The Public Integrity Section was created in 1976 in order to consolidate in one unit of the Criminal Division the Department's oversight responsibilities for the prosecution of criminal abuses of the public trust by government officials. Section attorneys prosecute selected cases involving federal, state, or local officials, and also provide advice and assistance to prosecutors and agents in the field regarding the handling of public corruption cases. In addition, the Section serves as the Justice Department's center for handling various issues that arise regarding public corruption statutes and cases. An Election Crimes Branch was created within the Section in 1980 to supervise the Department's nationwide response to election crimes, such as ballot fraud and campaign financing offenses. The Branch reviews all major election crime investigations throughout the country and all proposed criminal charges relating to election crime.

One of the Section's law enforcement priorities is its supervision of the Justice Department's nationwide response to election crimes. The purpose of Headquarters' oversight of election crime matters is to ensure that the Department's nationwide response to election crime is uniform, impartial, and effective. An Election Crimes Branch, headed by a Director and staffed by Section attorneys on a case-by-case basis, was created within the Section in 1980 to handle this supervisory responsibility.

The Election Crimes Branch oversees the Department's handling of all election crime allegations other than those involving civil rights violations, which are supervised by the Voting Section of the Civil Rights Division. Specifically, the Branch supervises four types of corruption cases: crimes that involve the voting process, crimes involving the financing of federal election campaigns, crimes relating to political shakedowns and other patronage abuses, and illegal lobbying with appropriated funds. Vote frauds and campaign-financing offenses are the most significant and also the most common types of election crimes.

Divisions of the Election Crimes Branch

As affecting the present EAC study, the appropriate divisions of the Election Crimes Branch are:

Vote frauds-During 2002 the Branch assisted United States Attorneys' Offices in Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nevada, North Carolina, Rhode Island, South Carolina, South Dakota, Texas, Utah, West Virginia, and

Wisconsin in handling vote fraud matters that occurred in their respective districts. This assistance included providing expertise in the evaluation of allegations to determine whether investigation would produce prosecutable federal criminal cases, helping to structure investigations, providing legal assistance with respect to the formulation of charges, and assisting in establishing task force teams of federal and state law enforcement officials to investigate vote fraud matters.

During 2003 the Branch assisted United States Attorneys' Offices in Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, Nevada, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Virgin Islands, West Virginia, and Wisconsin in handling vote fraud matters that occurred in their respective districts. This assistance included providing expertise in the evaluation of allegations to determine whether investigation would produce prosecutable federal criminal cases, helping to structure investigations, providing legal assistance with respect to the formulation of charges, and assisting in establishing task force teams of federal and state law enforcement officials to investigate vote fraud matters.

During 2004 the Branch assisted United States Attorneys' Offices in the following states in the handling of vote fraud matters that occurred in their respective districts: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New Mexico, Nevada, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia, Washington, and Wisconsin. This assistance included evaluating vote fraud allegations to determine whether investigation would produce a prosecutable federal criminal case, helping to structure investigations, providing legal advice concerning the formulation of charges, and assisting in establishing several task force teams of federal and state law enforcement officials to investigate vote fraud matters.

Litigation-The Branch Director or Section attorneys also prosecute selected election crimes, either by assuming total operational responsibility for the case or by handling the case jointly with a United States Attorney's Office. The Section also may be asked to supervise the handling of a case in the event of a partial recusal of the local office. For example, in 2002 the Branch continued to supervise the prosecution of a sheriff and his election attorney for using data from the National Crime Information Center regarding voters' criminal histories to wage an election contest.

District Election Officer Program-The Branch also assists in implementing the Department's long-standing District Election Officer (DEO) Program. This Program is designed to ensure that each of the 93 United States Attorneys' Offices has a trained prosecutor available to oversee the handling of election crime matters within the district and to coordinate district responses with Headquarters regarding these matters. The DEO Program involves the appointment of an Assistant United States Attorney in each federal district to serve a two-year term as a District Election Officer; the training of these

prosecutors in the investigation and prosecution of election crimes; and the coordination of election-related initiatives and other law enforcement activities between Headquarters and the field. In addition, the DEO Program is a crucial feature of the Department's nationwide Election Day Program, which occurs in connection with the federal general elections held in November of even-numbered years. The Election Day Program ensures that federal prosecutors and investigators are available both at the Department's Headquarters in Washington and in each district to receive and handle complaints of election irregularities from the public while the polls are open and that the public is aware of how these individuals can be contacted on election day. In 2002 the Department enhanced the DEO Program by establishing a Ballot Integrity Initiative.

Ballot Integrity Initiative-Beginning in September of 2002, the Public Integrity Section, acting at the request of the Attorney General, assisted in the implementation of a Ballot Integrity Initiative for the 2002 general election and subsequent elections. This initiative included increasing the law enforcement priority the Department gives to election crimes; holding a special day-long training event in Washington, DC for representatives of the 93 United States Attorneys' Offices; publicizing the identities and telephone numbers of the DEOs through press releases issued shortly before the November elections; and requiring the 93 U.S. Attorneys to communicate the enhanced federal prioritization of election crime matters to state and local election and law enforcement authorities. As part of Ballot Integrity Initiative, on October 8, 2002, the Public Integrity Section and the Voting Rights Section of the Department's Civil Rights Division co-sponsored a Voting Integrity Symposium for District Election Officers representing each of the 93 federal judicial districts. Topics discussed included the types of conduct that are prosecutable as federal election crimes and the federal statutes used to prosecute such cases. Attorney General John Ashcroft delivered the keynote address on the importance of election crime and ballot integrity enforcement. Assistant Attorney General of the Civil Rights Division Ralph Boyd and Assistant Attorney General of the Criminal Division Michael Chertoff also spoke to attendees on the protection of voting rights and the prosecution of election cases.

As part of Ballot Access and Voting Integrity Initiative, on September 23 and 24, 2003, the Public Integrity Section and the Voting Rights Section of the Department's Civil Rights Division co-sponsored a two-day Symposium for DEOs representing each of the 93 federal judicial districts. Topics discussed included the types of conduct that are prosecutable as federal election crimes and the federal statutes used to prosecute such cases. Assistant Attorney General of the Civil Rights Division Alexander Acosta and Assistant Attorney General of the Criminal Division Christopher A. Wray delivered the keynote addresses on the importance of protecting voting rights and the prosecution of election cases.

On July 20 and 21, 2004, the Public Integrity Section and the Voting Section of the Department's Civil Rights Division co-sponsored a two-day symposium for DEOs representing each of the 93 federal judicial districts. Topics discussed included the types of conduct that are prosecutable as federal election crimes and the federal statutes available to prosecute such cases, and the handling of civil rights matters involving

voting. Attorney General John Ashcroft delivered the keynote address on the importance of protecting voting rights and the prosecution of election fraud. In addition, Assistant Attorney General Christopher A. Wray of the Criminal Division and Assistant Attorney General R. Alexander Acosta of the Civil Rights Division addressed conference attendees on voting rights and election fraud enforcement issues respectively.

Federal Election Crimes

During 2002 the Public Integrity Section continued its nationwide oversight role regarding the handling of election crime allegations. As part of a general Department effort to increase its effectiveness in this important area, the Section assisted in the planning and execution of the Department's 2002 Ballot Integrity Initiative. The purpose of this ongoing Initiative is to increase the Department's ability to deter, detect, and prosecute election crimes and voting abuses by prioritizing election crime cases. As a result of the Initiative, during 2002 the number of election crime matters opened by federal prosecutors throughout the country increased significantly, as did the Section's active involvement in election crime matters stemming from the Initiative. At the end of 2002, the Section was supervising and providing advice on approximately 43 election crime matters nationwide. In addition, as of December 31, 2002, 11 matters involving possible election crimes were pending in the Section.

During 2002 the Section closed two election crime matters and continued its operational supervision of the following election crime case: *United States v. Woodward and Jordan*, Northern District of Alabama. Jimmy Woodward, the former Sheriff of Jefferson County, Alabama, and Albert Jordan, an attorney from Birmingham, were indicted in 2000 for conspiring to obtain criminal history records from the National Crime Information Center (NCIC) for use in an election contest, for converting NCIC records, and for accessing government computers without authority. The indictment charged that Woodward and Jordan conspired to use Sheriff's office personnel to access NCIC computers to run criminal history checks on hundreds of voters in Jefferson County who had voted by absentee ballot in the 1998 general election, in the hopes they would find criminal histories they could use to challenge the qualifications of voters who cast votes for Woodward's opponent. The charges were dismissed in 2000 on procedural grounds. The Department appealed the dismissal of the charges. In 2001 the case was argued before the Eleventh Circuit Court of Appeals by the Appellate Section of the Criminal Division. The Court of Appeals subsequently reversed the trial court's dismissal of the charges and remanded the case for retrial. The former United States Attorney for the Northern District of Alabama was recused from the case. The case is being prosecuted by an Assistant United States Attorney under the supervision of the Public Integrity Section.

The following cases are the result of an extensive federal investigation into vote-buying in the May 1998 primary election in Knott County, Kentucky, an Appalachian county in the Eastern District of Kentucky. The primary was contested by two slates of candidates. The ballot included the race for the position of Knott County Judge Executive, which controls local government hiring, contracting, and services. The ballot also included a primary contest for the office of United States Senator, conferring federal jurisdiction

over vote buying in the election even though the electoral corruption was directed at local races.

The following cases are being handled jointly by the Section and the United States Attorney's Office for the Eastern District of Kentucky:

United States v. Calhoun. On March 28, 2003, a federal grand jury indicted Jimmy Calhoun on two counts of vote-buying. On August 19, 2003, Calhoun pled guilty to two counts of vote-buying on behalf of a slate of candidates headed by Donnie Newsome, the successful candidate for County Judge Executive in the May 1998 Knott County, Kentucky primary election. Calhoun paid two persons to vote by absentee ballot. On April 7, 2004, Calhoun was sentenced to six months in prison and two years of supervised release. Calhoun pled guilty to two counts of vote-buying on behalf of a slate of candidates headed by Donnie Newsome, the successful candidate for County Judge Executive in the May 1998 Knott County, Kentucky primary election. Calhoun paid two persons to vote by absentee ballot.

United States v. Conley. On March 28, 2003, a federal grand jury indicted Jimmy Lee Conley on five counts of vote-buying and one count of making a false statement in a matter within federal jurisdiction. Conley was charged with paying five persons to vote by absentee ballot for a slate of candidates headed by Donnie Newsome, the successful candidate for County Judge Executive. During the investigation, Conley allegedly made false statements to an agent of the FBI. A jury acquitted Conley on June 19, 2003.

United States v. Johnson. On April 24, 2003, a federal grand jury indicted Newton Johnson on four counts of vote-buying, one count of making a false statement in a matter within federal jurisdiction, and two counts of obstructing justice. On June 2, 2003, Johnson pled guilty pursuant to a plea agreement to one count of vote-buying, and one count of obstructing justice. Johnson paid four persons to vote by absentee ballot in the May 1998 Knott County, Kentucky primary election. Johnson paid the voters to vote for a slate of candidates headed by Donnie Newsome, the successful candidate for County Judge Executive. During the investigation of this vote-buying, Johnson made a false statement to an agent of the FBI, and pressured grand jury witnesses to falsely deny that he bought their votes. Pursuant to his plea agreement, Johnson pled guilty to paying one of the voters for her vote, and to endeavoring to obstruct the grand jury investigation by urging her to lie under oath. Johnson agreed to cooperate with the government. On October 6, 2003, Johnson was sentenced to three years of probation. Johnson had previously testified at the trial of Donnie Newsome to the nature and extent of the broader conspiracy to approach and pay numerous impoverished, handicapped, illiterate, or otherwise impaired persons to vote for the slate of candidates headed by Newsome. Newsome offered Johnson a road improvement and a county job in exchange for participation in the conspiracy. Johnson, who is impoverished, illiterate, and unable to leave his remote mountain hollow without the road improvement, agreed and purchased the votes of four persons. A jury convicted Newsome on all counts.

United States v. Madden. On March 28, 2003, a federal grand jury indicted Patrick Wayne Madden on three counts of vote-buying and one count of making a false statement in a matter within federal jurisdiction. On October 6, 2003, Madden pled guilty to one count of vote-buying. Madden paid three persons to vote by absentee ballot for a slate of candidates headed by Donnie Newsome, the successful candidate for County Judge Executive in the May 1998 Knott County, Kentucky primary election. During the investigation of this vote-buying, Madden made a false statement to an agent of the FBI. On February 2, 2004, Madden was sentenced to 20 months in prison and two years of supervised release. Madden pled guilty to one count of vote-buying. Madden paid three persons to vote by absentee ballot for a slate of candidates headed by Newsome.

United States v. Newsome, Pigman, and Smith. On April 24, 2003, a federal grand jury indicted sitting County Judge Executive Donnie Newsome and two of his supporters, Willard Smith and Keith Pigman, on one count of conspiracy to commit vote-buying. The grand jury further charged five substantive counts of vote-buying, one count charging Newsome, two counts charging Smith, one count charging Smith and Pigman, and one count charging all three defendants. Newsome, Pigman, and Smith, working together and with other conspirators, approached and paid numerous impoverished, handicapped, illiterate, or otherwise impaired persons to vote for Newsome by absentee ballot, resulting in a large increase in the rate of absentee voting, and long lines at the County Clerk's Office. Newsome won the election to remain the County Judge Executive.

On July 8, 2003, Pigman pled guilty pursuant to a plea agreement to conspiracy to commit vote-buying, and one count of vote-buying. Pigman cooperated with the government following his plea, and provided substantial assistance by testifying against Newsome and Smith. Pigman explained the nature and extent of the broader conspiracy to approach and pay numerous impoverished, handicapped, illiterate, or otherwise impaired persons to vote for the slate of candidates headed by Newsome. Pigman further explained that such voters were purposefully chosen because they would present severe credibility problems for the government in any investigation and prosecution of their conspiracy. Newsome offered and ultimately gave Pigman a county job in exchange for Pigman's participation in the conspiracy. On October 30, 2003, Pigman was sentenced to four months of imprisonment, four months of community confinement, and two years of supervised release. On October 1, 2003, a jury convicted both Newsome and Smith on all counts. Newsome, while in office as a Kentucky State Representative, became a candidate for County Judge Executive. Newsome, Pigman, and Smith, working together and with other conspirators, approached and paid numerous persons to vote for Newsome and certain other candidates by absentee ballot, resulting in a large increase in the rate of absentee voting, and long lines at the County Clerk's Office. Newsome, who won the primary election and subsequent elections, was ordered detained pending sentencing, together with Smith, in light of threats to government witnesses during the trial.

On March 16, 2004, Newsome, the former County Judge Executive for Knott County, Kentucky, was sentenced to 26 months of in prison, a \$20,000 fine, and three years of supervised release. Smith was sentenced to 24 months in prison, a \$5,000 fine, and three

years of supervised release. A jury previously convicted Newsome and Smith on all counts of an indictment that charged them with conspiracy to buy votes and five counts of vote-buying. Pigman, previously pled guilty to the conspiracy charge, and was sentenced to four months in prison, four months of community service, and two years of supervised release.

United States v. Ronnie Slone and Brady Slone. On March 28, 2003, a federal grand jury indicted Ronnie Neal Slone and Brady Warren Slone (who are brothers) on three counts of vote-buying, and on one count each of making a false statement in a matter within federal jurisdiction. The Slones allegedly paid three persons to vote by absentee ballot for a slate of candidates headed by Donnie Newsome. During the investigation of this vote-buying, each of the Slones allegedly made a false statement to an agent of the FBI. On August 15, 2003, a jury acquitted both defendants.

United States v. Phillip Slone. On March 28, 2003, a federal grand jury indicted Phillip Slone (who is not directly related to Ronnie and Brady Slone) on seven counts of vote-buying and one count of making a false statement in a matter within federal jurisdiction. On June 4, 2003, Slone pled guilty pursuant to a plea agreement to one count of vote-buying. Slone paid seven persons to vote for a slate of candidates headed by Homer Sawyer, the unsuccessful incumbent candidate for County Judge Executive in the May 1998 Knott County, Kentucky primary election. During the investigation of this vote-buying, Slone made a false statement to an agent of the FBI. On October 15, 2003, Slone was sentenced to ten months in prison and two years supervised release. Slone appealed his sentence and the district court's jurisdiction, and that appeal is pending.

Prosecution Of Electoral Fraud Under United States Federal Law

By Craig Donsanto

In Prosecution of Electoral Fraud, Donsanto discusses what sort of conduct is currently considered to be actionable as vote fraud, the historical background for the role of the criminal prosecutor in this area, and the various federal laws and juridical precedents governing the prosecution of vote fraud. It is a very useful document for understanding the current Department of Justice's view of its mission in this area, its interpretation of the federal laws governing its work, and how the Department has and has not been able to utilize applicable provisions.

Donsanto stresses that because electoral administration is primarily a state rather than a federal matter, the federal government usually only has authority over electoral issues where: federal candidates are standing for election; a corrupt act occurs; a federal instrumentality is employed in the fraud; the fraud involves the participation of public officials "acting under color of law" in such a manner that the constitutional right to Due Process and/or Equal Protection is violated; and/or the fraud is motivated by an intent to deprive a class of voters who's rights have been specifically guaranteed by the United States Constitution.

Donsanto defines election fraud as "a substantive irregularity relating to the voting act--- such as bribery, intimidation, or forgery---which has the potential to taint the election itself." Specifically, this includes:

- * Preventing voters from participating in elections where a federal candidate is on the ballot, or when done "under color of law" in any election—18 U.S.C. sections 241 & 242.
- * Vote buying, 42 U.S.C. section 1973i(c).
- * Voting more than once, 42 U.S.C. section 1973i(e).
- * Fraudulent voting, 42 U.S.C. sections 1973i(c), 1973i(e) & 1973gg-10.
- * Intimidating voters through physical duress in any election, 18 U.S.C. section 245(b)(1)(A), or through physical or economic threats in connection with their registering to vote or their voting in federal elections, 42 U.S.C. section 1973gg-10, or to vote for a federal candidate, 18 U.S.C. section 594.
- * Malfeasance by election officials acting "under color of law" for actions such as ballot-box stuffing, falsely tabulating votes, or preventing valid voter registrations or votes from being given effect in any election, 18 U.S.C. sections 241 & 242, as well as in elections where federal candidates are on the ballot, 42 U.S.C. sections 1973i(c), 1973i(e) & 1973gg-10.

- * Submitting fictitious names on voter registration roles, 42 U.S.C. sections 1973i(c) & 1973gg-10.
- * Knowingly procuring eligibility to vote for federal office by persons who are not entitled to vote under applicable state law, 42 U.S.C. sections 1973i(c) & 1973gg-10 (criminal voting—prohibited in approximately 40 states) and 42 U.S.C. sections 1973i(c), 1972gg-10, 18 U.S.C. 1015(f) & 611 (non-citizen voting).
- * Knowingly making a false claim of United States citizenship to register to vote in any election, 18 U.S.C. section 1015(f), or falsely claiming United States citizenship for registering or voting in any election, 18 U.S.C. section 911.
- * Providing false information concerning a person's name, address or period of residence in a district in order to establish that person's eligibility to register or to vote in a federal election, 42 U.S.C. sections 1973i(c) & 1973gg-10.
- * Causing the production of voter registrations that qualify alleged voters to vote for federal candidates, or the production of ballots in federal elections, that the actor knows are materially defective under applicable state law, 42 U.S.C. section 1973gg-10.
- * Using the United States mails, or interstate wire facilities, to obtain the salary and emoluments of an elected official through any of the activities mentioned above, 18 U.S.C. sections 1341 & 1343.
- * Ordering, keeping or having under one's authority or control any troops or armed men at any polling place in any election. The actor must be an active civilian or military officer or an employee of the United States government, 18 U.S.C. section 592.
- * Intimidating or coercing a federal employee to induce or discourage "any political activity" by that employee, 18 U.S.C. section 610.

Other Points of Interest

- Most election fraud is aimed at corrupting elections for local offices, which control or influence patronage positions. Election fraud occurs most frequently where there are fairly equal political factions, and where the stakes involved in who controls public offices are weighty -- as is often the case where patronage jobs are a major source of employment, or where illicit activities are being protected from law enforcement scrutiny
- Vote buying offenses have represented a sizable segment of the federal election crime docket in modern times.
- Voter intimidation requires proof of a difficult element: the existence of physical or economic intimidation that is intended by the defendant and felt by the victim. The crime of voter "intimidation" normally requires evidence of threats, duress, economic coercion, or some other aggravating factor which tends to improperly induce conduct on the part of the victim. If such evidence is lacking, an

alternative prosecutive theory may apply to the facts, such as multiple voting in violation of 42 U.S.C. ' 1973i(e). As with other statutes addressing voter intimidation, in the absence of any jurisprudence to the contrary, it is the Criminal Division's position that section 1973gg-10(1) applies only to intimidation that is accomplished through the use of threats of physical or economic duress. Voter "intimidation" accomplished through less drastic means may present violations of the Voting Rights Act, 42 U.S.C. § 1973i(b), which are enforced by the Civil Rights Division through noncriminal remedies.

- Section 1973gg-10(2) is a specific intent offense. This means that the offender must have been aware that citizenship is a requirement for voting and that the registrant did not possess United States citizenship. In most instances, proof of the first element is relatively easy because the citizenship requirement is stated on the voter registration form, and the form requires that the voter check a box indicating that he or she is a citizen. Proof of the second element, however, may be more problematic, since the technicalities of acquiring United States citizenship may not have existed in the culture of the registrant's country of birth, or otherwise been evident to him, and because the registrant may have received bad advice concerning the citizenship requirement. These issues can also usually be overcome by the fact that all voter registration forms now require a registrant to certify that he or she is a citizen. Section 611 is a relatively new statute that creates an additional crime for voting by persons who are not United States Citizens .It applies to voting by non-citizens in an election where a federal candidate is on the ballot, except when: (1) non-citizens are authorized to vote by state or local law on non-federal candidates or issues, and (2) the ballot is formatted in a way that the non-citizen has the opportunity to vote solely for the non-federal candidate or issues on which he is entitled to vote under state law. Unlike section 1015(f), section 611 is directed at the act of voting, rather than the act of lying. But unlike section 1015(f), Section 611 is a strict liability offense in the sense that the prosecution must only prove that the defendant was not a citizen when he registered or voted. Section 611 does not require proof that the offender be aware that citizenship is a prerequisite to voting.

Election Protection 2004

By the Election Protection Coalition

Election Protection – the Program

Election Protection 2004 was the nation's most far-reaching effort to protect voter rights before and on Election Day. The historic nonpartisan program included:

- A toll-free number, 1-866-OUR-VOTE, with free, immediate and multi-lingual assistance to help voters with questions about registration and voting, and assist voters who encounter barriers to the ballot box.
- Distribution of more than five million "Voters' Bills of Rights" with state-specific information
- 25,000 volunteers, including 6,000 lawyers and law students, who watched for problems and assisted voters on the spot at more than 3,500 predominantly African-American and Latino precincts with a history of disenfranchisement in at least 17 states.
- Civil rights lawyers and advocates represented voters in lawsuits, preserved access to the polls, exposed and prevented voter intimidation, worked with election officials to identify and solve problems with new voting machines, technology and ballot forms, and protected voter rights in advance and on Election Day.

Voter Intimidation and Suppression Stories (Abridged)

- An Associated Press story noted Election Protection's exposure of reported voter suppression tactics in Colorado: Officials with the Election Protection Coalition, a voter-rights group, also said some voters in a predominantly black neighborhood north of Denver found papers on their doorsteps giving them the wrong address for their precinct
- Election Protection received a report from Florissant County, Missouri from a voter who lives in predominantly white neighborhood. While waiting in line to vote, a Republican challenger challenged the black voters by requesting more proof of identification, residence, and signature match, while asking nothing from white voters. Also, the same voter reportedly asked a few questions about voting but an election officials refused to provide any meaningful answer, insisting that "it's very simple", but provided white voters with information when requested. There was one other black voter in line who was also singled out for same treatment while white voters were not.
- Election Protection received a report from Boulder County, Colorado that a poll worker made racist comments to Asian American voter and then told her she was not on the list and turned her away. The voter saw others filling out provisional ballots and asked for one but was denied. Another Asian American woman behind

her in line was also given trouble by the same poll worker (he questioned her nationality and also turned her away).

- The Election Protection hotline received reports from Pinellas County, Florida that individuals purporting to be from the Kerry campaign are going door-to-door handing out absentee ballots, and asking voters to fill them out, and then taking the ballots from them, saying "Vote here for Kerry. Don't bother going to the polls."
- The Election Protection Coalition received a report from a woman whose sister lives in Milwaukee and is on government assistance. Her sister was reportedly told by her "case manager" that if she voted for Kerry, she would stop receiving her checks.
- An illiterate, older and disabled voter in Miami-Dade asked for assistance reading the ballot and reported that a poll worker yelled at him and refused to assist him and also refused to allow him to bring a friend into the booth in order to read the ballot to him.
- The Election Protection Coalition have gathered reports that flyers are circulating in a black community in Lexington, South Carolina claiming they those who are behind on child support payments will be arrested as the polls.
- Minority voters from Palm Beach County, Florida reported to the hotline that they received middle-of-the-night, live harassing phone calls warning them away from the polls.
- A volunteer for Rock the Vote reported that two illiterate voters in Michigan requested assistance with their ballots but were refused and reportedly mocked by poll workers.
- The hotline received a call from a radio DJ in Hillsborough County, Florida, who stated that he has received many calls (most of which were from African-Americans) claiming that poll workers were turning voters away and not "letting" them vote.
- The hotline received a call from Pima County, Arizona, indicating that Democratic voters received calls throughout Monday evening, providing incorrect information about the precinct location. Voters have had to be transported en masse in order to correct the problem.
- A caller from Alabama claims that he was told at his polling place that he could vote there for everything but the President and that he would have to go elsewhere in order to vote for a presidential candidate.

- Poll monitors in Philadelphia reports groups of lawyers, traveling in threes, who pull voters out of line and challenge them to provide ID, but when challenged themselves, they hop into waiting cars or vans and leave. Similar activity by Republican lawyers in Philadelphia was reported in the 2002 election.
- In Cuyahoga, Ohio, a caller reported that all black voters are being asked to show ID, while white voters are not. Caller report that he is black and had to show ID while his girlfriend is white and did not have to show ID.
- Two months ago, suspicious phone calls to newly registered Democrats —telling them they weren't, in fact, registered to vote — were traced to the Republican headquarters in the Eastern Panhandle. On Monday, Democrats there said the calls have started again, even after the Berkeley County Clerk — a Republican — sent the party a cease-and-desist letter. The Berkeley prosecutor, who also is county Democratic chairman, has called on the U.S. attorney to investigate.
- In Tuscon, Arizona a misleading call informing voters that they should vote on November 3 has been traced back to the state GOP headquarters. The FBI is investigating.
- A man driving around in a big van covered in American flags and a big picture of a policeman was reportedly parked in front of a polling place; he then got out and moved within the 75 ft limit, until he was asked to leave; he then was found inside the polling place and was again asked to leave. Election Protection volunteers contacted officials and the man was eventually removed.
- The Election Protection hotline has received a report from individuals who claim to have received recorded telephone message coming from Bill Clinton and ACT and reminding them to vote on Nov. 3rd.
- In Massachusetts, the EP Hotline has received a report that a radio station (WILD) is broadcasting that voters will be arrested on the spot if they have outstanding parking tickets.
- In Richland, South Carolina Election Protection has received a report of a poll manager turning away individuals who do not have photo ID issued to the county or a driver's license; an EP lawyer spoke with the Poll Manager at 8:20 am and told her that people with other forms of ID should be allowed to vote by provisional ballot.
- In Greenville, a caller reported that a white poll worker was asking Blacks for multiple form of I.D. Fortunately, the voter who reported the problem did have a second I.D. but reported that some others were turned away. Election Protection attorneys have alerted election officials.

- In Allegheny County, Pennsylvania, an official looking flyer advises Democratic voters to "create a peaceful voting environment" by voting on Wednesday, November 3
- The week before the election, flyers were circulated in Milwaukee under the heading "Milwaukee Black Voters League" with some "warnings for election time." The flyer listed false reasons for which you would be barred from voting (such as a traffic ticket) and then warned that "If you violate any of these laws you can get ten years in prison and your children will get taken away from you."
- There is a Jefferson County flyer which tells voters "See you at the Poles![sic]"... on November 4.

The Federal Crime of Election Fraud

By Craig Donsanto

In The Federal Crime of Election Fraud, Donsanto addresses the role of the United States Department of Justice in matters of election fraud. Specifically, it answers the most frequently asked questions concerning the federal law enforcement role in election matters. Particularly, what sort of election-related conduct is potentially actionable as a federal crime, what specific statutory theories apply to frauds occurring in elections lacking federal candidates on the ballot, what federalism, procedural, and policy considerations impact on the federalization of this type of case, and how Assistant United States Attorneys should respond to this type of complaint.

Donsanto indicates that as a general rule, the federal crime of voter fraud embraces only organized efforts to corrupt of the election process itself: i.e., the registration of voters, the casting of ballots, and the tabulation and certification of election results. Moreover, this definition excludes all activities that occur in connection with the political campaigning process, unless those activities are themselves illegal under some other specific law or prosecutorial theory. This definition also excludes isolated acts of individual wrongdoing that are not part of an organized effort to corrupt the voting process. Finally, Donsanto points out that mistakes and other gaffs that inevitably occur are not included as voter fraud. Where mistakes occur on a significant enough level to potentially affect the outcome of an election, the appropriate remedy is an election contest brought by the loser seeking civil judicial redress through the appropriate state election contest process.

Along with the limits discussed above, prosecuting election fraud offenses in federal court is further complicated by the constitutional limits that are placed on federal power over the election process. The conduct of elections is primarily a state rather than a federal activity.

Donsanto lists four types of election fraud: schemes to purposely and corruptly register voters who either do not exist, or who are known by the putative defendant to be ineligible to vote under applicable state law; schemes to cast, record or fraudulently tabulate votes for voters who do not participate in the voting act at all; schemes to corrupt the voting act of voters who do participate in the voting act to a limited extent; and, schemes to knowingly prevent voters qualified voters from voting.

Donsanto lists four situations where federal prosecution is appropriate: Where the objective of the conduct is to corrupt the outcome of a federal elective contest, or where the consequential effect of the corrupt conduct impacts upon the vote count for federal office; Where the object of the scheme is to discriminate against racial, ethnic or language minority groups, the voting rights of which have been specifically protected by federal statutes such as the Voting Rights Act, 42 U.S.C. section 1973 et seq.; Where federalization is required in order to redress longstanding patterns of electoral fraud, either at the request of state or local authorities, or in the face of longstanding inaction by state authorities who appear to be unwilling or unable to respond under local law; and, Where there is a factual basis to believe that fraudulent registration or voting activity is sufficiently connected to other forms of criminal activity that perusing the voter fraud

angle will yield evidence useful in the prosecution of other categories of federal offense.

Donsanto lists four advantages to federal prosecution: voter fraud investigations are labor intensive. Local law enforcement agencies often lack the manpower and the financial resources to take these cases on; voter fraud matters are always politically sensitive and very high profile endeavors at the local level. Local prosecutors (who are usually themselves elected) often shy away from prosecuting them for that reason; the successful prosecution of voter fraud cases demands that critical witnesses be examined under oath before criminal charges based on their testimony are filed. Many states lack the broad grand jury process that exists in the federal system; and, the defendants in voter fraud cases are apt to be politicians - or agents of politicians - and it is often impossible for either the government or the defendant to obtain a fair trial in a case that is about politics and is tried to a locally-drawn jury. The federal court system provides for juries to be drawn from broader geographic base, thus often avoiding this problem.

Several prosecutorial theories used by United States Attorneys to federalize election frauds are discussed. These include: schemes by polling officers to violate their duty under state law to safeguard the integrity of the election process by purposefully allowing void ballots to be cast (stuffing the ballot box), or by intentionally rendering fraudulent vote tallies which can be prosecuted as civil rights violations under 18 U.S.C. sections 241 or 242; schemes to stimulate or reward voter registration by offering or giving voters things having monetary value violate the "payment for registering" clause of 42 U.S.C. section 19731(c); schemes to register voters fraudulently through providing election officials materially false information about the voter's eligibility for the franchise; and, schemes to obtain and cast ballots that are materially defective in nonfederal elections can still be prosecuted under 18 U.S.C. section 1341. There are also some other federal statutes involved in election fraud cases such as 18 U.S.C. section 597 that prohibits making expenditures for the specific purpose of stimulating voters to cast ballots for candidates seeking the federal offices of Senator, Congressman or President and 42 U.S.C. section 1973i (e) that prohibits voting more than once in elections where federal candidates are on the ballot.

Donsanto lists four questions used by prosecutors in evaluating the credibility of election complaints: does the substance of the complaint assuming it can be proven through investigation - suggest a potential crime; is the complaint sufficiently fact-specific that it provides leads for investigators to pursue; is there a federal statute that can be used to federalize the criminal activity at issue; and, is there a special federal interest in the matter that warrants federalization rather than deferral to state law enforcement.

All federal election investigations must avoid the following: non-interference in elections unless absolutely necessary to preserve evidence; interviewing voters during active voting periods; seizing official election documentation; investigative activity inside open polls; and prosecutors must adhere to 18 U.S.C. section 592, prohibiting the stationing of armed men at places where voting activity is taking place.

Finally, Donsanto indicates that election crimes based on race or language minority status are treated as civil rights matters under the Voting Rights Act.

Fooled Again, Mark Crispin Miller

Fooled Again sets out to show that the 2004 election was won by Bush through nefarious means, and indicts the news media for not taking anomalies, irregularities, and alleged malfeasance in the process seriously enough.

Miller identifies a number of statistical anomalies based on polling and turnout results that he alleges puts the validity of the 2004 election in doubt. He accuses Republicans of committing crimes and improprieties throughout the country. These include deliberate disparities in voting machine distribution and long lines in Democratic jurisdictions; misinterpretation of voting laws by elections officials to the detriment of Democratic voters; dirty tricks and deceptive practices to mislead Democratic and minority voters about voting times, places and conditions; machine irregularities in Democratic jurisdictions; relocating polling sites in Democratic and minority areas; suspicious mishandling of absentee ballots; refusing to dispense voter registration forms to certain voter registration groups; intimidation of students; suspicious ballot spoilage rates in certain jurisdictions; "strategic distribution of provisional ballots," and trashing of provisional ballots; harassment of Native American voters; a Republican backed organization engaging in voter registration efforts throughout the country that allegedly destroyed the voter registration forms of Democrats; illegitimate challenges at the polls by Republican poll watchers; improper demands for identification in certain areas; Republican challenges to the voter registration status of thousands of voters before the election, and the creation of lists of voters to challenge at the polls; wrongful purging of eligible voters from voting rolls; partisan harassment; the selective placement of early voting sites; and the failure to send out absentee ballots in time for people to vote.

Miller details what he says was the inappropriate use of the Federal Voter Assistance Program that made voting for the military easy while throwing up obstacles for civilians overseas in their efforts to vote by absentee ballot, leading many of them to be disenfranchised. Miller says that most of the military voters would be Republicans and most of the overseas civilians Kerry voters.

In this book, Miller clearly tries to prove the Republican Party won the 2004 through illegitimate means. This must be kept strongly in mind in making any use of this work. However, the book is well sourced, and individual instances of alleged malfeasance discussed may be worth looking at.

Summary and Relevant Excerpts From Georgia Voter ID Litigation

Complaint For Declaratory And Injunctive Relief

The Secretary of State, as the Chief Election Officer in Georgia, informed the General Assembly before the passage of Act 53 in a letter (attached hereto as Exhibit A), and also informed the Governor in a letter (attached hereto as Exhibit B) before he signed the bill into law, that there had been no documented cases of fraudulent voting by persons who obtained ballots unlawfully by misrepresenting their identities as registered voters to poll workers reported to her office during her nine years as Secretary of State .

Although the Secretary of State had informed the members of the General Assembly and the Governor prior to the enactment of Act 53, that her office had received many complaints of voter fraud involving absentee ballots and no documented complaints of fraud that involve ballots that were cast in person at the polls, the General Assembly ignored this information and arbitrarily chose instead to require only those registered voters who vote in person to present a Photo ID as a condition of voting, but deliberately refused to impose the same requirement on absentee voters

The Stated Purpose Of The Photo ID Requirement Fraud Is A Pretext

According to a press release prepared by the Communications Office of the Georgia House of Representatives, the purpose of Act 53 is:

. . . to address the issue of voter fraud by placing tighter restrictions on voter identification procedures. Those casting ballots will now be required to bring a photo ID with them before they will be allowed to vote.

Al Marks, Vice Chairman for Public Affairs and Communication of the Hall County GOP told the Gainesville Times:

I don't think we need it for voting, because I don't think there's a voter fraud problem. Gainesville Times, "States Voters Must Present Picture IDs" (September 15, 2005) (www.gainesvilletimes.com).

There is no evidence that the existing provisions of Georgia law have not been effective in deterring and preventing imposters from fraudulently obtaining and casting ballots at the polls by misrepresenting their true identities to election officials and passing themselves off as registered voters whose names appear on the official voter registration list.

The pretextual nature of the purported justification for the burden which the Photo ID requirement imposes on the right to vote is shown by the following facts:

(a) Fraudulent voting was already prohibited by existing Georgia law without unduly burdening the right of a citizen to vote.

(i) Fraudulent voting was already prohibited as a crime under O.C .G.A. §§ 21-2-561, 21-2-562, 21-2-566, 21-2-571, 21-2-572 and 21-2-600, punishable by a fine of up to \$10,000 or imprisonment for up to ten years, or both.

(ii) Voter registration records are updated periodically by the Secretary of State and local election officials to eliminate people who have died, have moved, or are no longer eligible to vote in Georgia for some other reason.

(iii) Existing Georgia law also required election officials in each precinct to maintain a list of names and addresses of registered voters residing in that precinct, and to check off the names of each person from that official list as they cast their ballots.

(iv) Registered voters were also required by existing Georgia law to present at least one of the seventeen forms of documentary identification to election officials who were required, before issuing the voter a ballot, to match the name and address shown on the document to the name and address on the official roll of registered voters residing in the particular precinct. O .C .G.A. § 21-2-417 .

(b) There is no evidence that the existing Georgia law has not been effective in deterring or preventing fraudulent in-person voting by impersonators - the only kind of fraudulent voting that might be prevented by the Photo ID requirement. To the contrary, the Secretary of State, who, as the Superintendent of Elections, is the highest election official in Georgia, informed both the General Assembly (Exhibit A) and the Governor (Exhibit B) in writing that there had been no documented cases of fraudulent in person voting by imposters reported to her during her nine years in office .

(c) If the true intention of the General Assembly had been to prevent fraudulent voting by imposters, the General Assembly would have imposed the same restrictions on the casting of absentee ballots - particularly after the Secretary of State had called to their attention the fact that there had been many documented instances of fraudulent casting of absentee ballots reported to her office.

(d) Fraudulent in-person voting is unlikely, would be easily detected if it had occurred in significant numbers, and would not be likely to have a substantial impact on the outcome of an election:

(i) Many people vote at a local neighborhood polling place where they are likely to be known to and recognized by neighbors or poll workers.

(ii) Voters were required by existing Georgia law (O .C.G.A. § 21-2-417), to provide one of the seventeen means of identification to election officials.

(iii) Election officials are required, before issuing the ballot to the voter, to check off the name of either voter from an up-to-date list of the names and addresses of every registered voter residing in the precinct. If an imposter arrived at a poll and was successful in fraudulently obtaining a ballot before the registered voter arrived at the poll, a registered voter, who having taken the time to go to the polls to vote, would undoubtedly complain to elections officials if he or she were refused a ballot and not allowed to vote because his or her name had already been checked off the list of registered voters as having voted. Likewise, if an imposter arrived at the polls after the registered voter had voted and attempted to pass himself off as someone he was not, the election official would instantly know of the attempted fraud, would not issue the imposter a ballot or allow him to vote, and presumably would have the imposter arrested or at least investigate the attempted fraud and report the attempt to the Secretary of State as Superintendent of Elections.

EXHIBIT B

Letter from Secretary of State Cathy Cox to Governor Sonny Purdue, April 8, 2005

One of the primary justifications given by the Legislature for the passage of the photo identification provisions of House Bill 244 - the elimination of voter ID fraud at the polls is an unfounded justification I cannot recall one documented case of voter fraud during my tenure as Secretary of State or Assistant Secretary of State that specifically related to the impersonation of a registered voter at voting polls. Our state currently has several practices and procedures in existence to ensure that such cases of voter fraud would have been detected if they in fact occurred, and at the very least, we would have complaints of voters who were unable to vote because someone had previously represented himself or herself as such person on that respective Election Day. As a practical matter, there is no possibility that vote fraud of this type would have gone undetected if it had in fact occurred because there is a list of registered voters at each polling place that is checked off as each person votes. If the impersonator voted first and the legitimate voter came to the polling place later in the day and tried to vote, he or she would be told that they had already voted and would not be allowed to vote a second time in the same day. It is reasonable to suspect that a voter who cared enough to show up at the polls to cast a ballot would almost certainly have complained - but there have been no such complaints. If the opposite occurred, and the legitimate person came to the polls first and cast his ballot, the impersonator who showed up later would not be allowed to vote for the same reason and the attempted fraud would have been prevented.

In addition, this slate has adopted severe criminal sanctions for the type of vote impersonation that is purportedly of concern and it is evident that such penalties have been a sufficient deterrent. In essence, there is no voter fraud problem currently in existence that House Bill 244 addresses.

In contrast to the lack of voter fraud relating to impersonation of voters at polls during my tenure the State Election Board has reviewed numerous cases of voter fraud relating to the use of absentee ballots.

State Defendants' Initial Brief In Opposition To Plaintiffs' Motion For Preliminary Injunction

There are 159 counties and an even larger number of municipalities in Georgia that conduct elections. Neither the Secretary of State nor her staff can be physically present at the polling places for those elections and therefore could not possibly be aware of all in-person voter fraud that might occur. (Cox Decl. ¶ 6.)

Under the prior law before enactment of HB 244, it is beyond argument that in person voter fraud could have taken place. (Id. ¶ 5.) The Secretary of State's view of the scenario in which voter fraud would occur is when an imposter votes at the polling place and the actual voter shows up later and is unable to cast a ballot. (Id. ¶ 5.) However, the Secretary of State agrees that the scenario she describes is only one instance of potential voter

fraud, and both her scenario and others were possible under the law as it existed prior to the enactment of HB 244. (Id.) As stated by the Director of Elections for the Forsyth County Board of Elections, the typical case of in-person voter fraud would be committed by identifying persons who do not typically vote and then having other individuals vote as those persons. (Smith Decl. ¶ 4.)

The Executive Director of the Richmond County Board of Elections has been aware of such complaints, but has been unable to gather evidence to prove the violations because the nature of the conduct makes such evidence hard to develop. (Bailey Decl. ¶ 9.) Indeed, past incidents of fraudulent registrations in Forsyth County and Fulton County were reported to the District Attorneys' offices in those respective counties. (Smith Decl. ¶ 6; MacDougald Decl. ¶ 4.) In Fulton County, the fraudulent registrations were also reported to the United States Attorney for the Northern District of Georgia, and he has opened an investigation of the fraudulent registrations. (MacDougald Decl. ¶ 4.)

Order for a Preliminary Injunction

As part of the order, Judge Murphy describes the testimony of Harry MacDougald, a member of the Fulton County Board of Registration and Election. Mr. MacDougald had stated he had observed voter registration fraud, which he referred to the U.S. Attorney and the District Attorney. In addition, since some precinct cards the Board sent out in 2004 were returned as undeliverable, MacDougald believes they were not eligible voters, yet they were allowed to vote.

Although the Secretary of State said she knew of no incidents of impersonation at the polls, she and her staff are not physically present in every polling site. Secretary Cox stated local officials are in the best position to know of such incidents. The State Election Board has received a number of complaints of irregularities with respect to absentee ballots. Cox is also aware of a case of vote buying of absentee ballots. She is also aware of efforts to submit fraudulent registrations.

According to Secretary of State Cox, Georgia has procedures and practices in place to detect voter fraud. Those procedures include verifying the voter's correct address, as well as the voter's name, during the check-in process for in-person voters. Georgia also imposes criminal penalties for voter impersonation. Most violations of Georgia election laws are punishable as felonies. No evidence indicates that the criminal penalties do not sufficiently deter in-person voter fraud.

The integrity of the voter list also is extremely important in preventing voter fraud. The Atlanta Journal Constitution published an article indicating that Georgia had experienced 5,412 instances of voter fraud during a twenty-year period. Secretary of State Cox's office undertook an investigation in response to that article. The investigation revealed that the specific instance of voter fraud outlined in the Atlanta Journal-Constitution, involving a report that Alan J. Mandel had voted after his death, actually did not occur. Instead, an individual with a similar name, Alan J. Mandle, had voted at the polls, and the poll worker had marked Alan J. Mandel's name rather than marking Alan J. Mandle, the name of the individual who actually voted. Secretary of State Cox's office compared the

signature on the voter certificate to the voter registration card of the living individual, and concluded that the living individual, Alan J. Mandle, rather than the deceased Alan J. Mandel, had voted.

The Secretary of State's Office subsequently attempted to ensure that voter records were maintained and up to date. The Secretary of State's Office sends information concerning dead voters to local elections officials on a monthly basis, and now has the authority to remove the names of deceased voters from the voter rolls if the local elections officials fail to do so in a timely manner. Secretary of State Cox is not aware of any reports of dead individuals voting since her office received authority to remove the names of deceased individuals from the voter rolls.

There seems to be little doubt that the Photo ID requirement fails the strict scrutiny test: accepting that preventing voter fraud is a legitimate and important State concern, the statute is not narrowly drawn to prevent voter fraud. Indeed, Secretary of State Cox pointed out that, to her knowledge, the State had not experienced one complaint of in-person fraudulent voting during her tenure. In contrast, Secretary of State Cox indicated that the State Election Board had received numerous complaints of voter fraud in the area of absentee voting. Furthermore, the Secretary of State's Office removes deceased voters from the voting rolls monthly, eliminating the potential for voter fraud noted by the Atlanta Journal-Constitution article alleging that more than 5,000 deceased people voted during a twenty-year period.

Further, although Defendants have presented evidence from elections officials of fraud in the area of voting, all of that evidence addresses fraud in the area of voter registration, rather than in-person voting. The Photo ID requirement does not apply to voter registration, and any Georgia citizen of appropriate age may register to vote without showing a Photo ID. Indeed, individuals may register to vote by producing copies of bank statements or utility bills, or without even producing identification at all. The Photo ID law thus does nothing to address the voter fraud issues that conceivably exist in Georgia.

Views of Selected Local Election Officials on Managing Voter Registration and Ensuring Eligible Citizens Can Vote

GAO Report

In 2002, the Help America Vote Act (HAVA) was enacted and, among other things, it requires states to implement provisional voting for elections for federal office. HAVA, in general, requires that individuals not listed as registered or whose eligibility is questioned by an election official must be notified about and permitted to cast a provisional ballot that is set aside for review by election officials at a later time so that they can determine whether the person is eligible to vote under state law. HAVA also requires that provisional ballots be provided to first-time voters who had registered to vote by mail on or after January 1, 2003, but were unable to show photo identification or another qualifying identification document when voting in person or by mail in a federal election. In addition, HAVA requires that election officials must provide access to information that permits voters to learn if their provisional ballot was counted, and, if not, why not.

This Report focuses on the efforts of local election officials in 14 jurisdictions within 7 states to manage the registration process, maintain accurate voter registration lists, and ensure that eligible citizens in those jurisdictions had the opportunity to cast ballots during the 2004 election. Specifically, for the 2004 election, the Report concentrates on election officials' characterization of their experiences with regard to (1) managing the voter registration process and any challenges related to receiving voter registration applications; checking them for completeness, accuracy, and duplication; and entering information into voter registration lists; (2) removing voters' names from voter registration lists and ensuring that the names of eligible voters were not inadvertently removed; and (3) implementing HAVA provisional voting and identification requirements and addressing any challenges encountered related to these requirements. The Report also provides information on motor vehicle agency (MVA) officials' characterization of their experiences assisting citizens who apply to register to vote at MVA offices and forwarding voter registration applications to election offices.

The Report analyzed information collected from elections and motor vehicle agency offices in seven states—Arizona, California, Michigan, New York, Texas, Virginia, and Wisconsin. These states take various approaches to administering elections. Within each of the seven states, using population data from the 2000 U.S. Census, two jurisdictions were selected: a local jurisdiction with a large population and a local jurisdiction with a small population. The 14 jurisdictions we selected were Gila and Maricopa Counties, Arizona; Los Angeles and Yolo Counties, California; City of Detroit and Delta Township, Michigan; New York City and Rensselaer County, New York; Bexar and Webb Counties, Texas; Albemarle and Arlington Counties, Virginia; and the cities of Franklin and Madison, Wisconsin.

Information was gathered for the Report in a number of ways. First, relevant laws, state reports, and documents related to the voter registration process in the seven states were reviewed. Second, state and local election officials in the 7 states and 14 jurisdictions

were interviewed to obtain information on their registration processes and implementation of the HAVA requirements for provisional voting and voter identification. Third, a survey was sent to election officials in the 14 jurisdictions to gather information about their experiences with the November 2004 election. Finally, a survey was sent to state and local MVA officials in 6 of the 7 states and 12 of the 14 jurisdictions. The survey primarily asked questions about the MVA offices' experiences with (1) assisting citizens with completing voter registration applications, (2) forwarding the applications to election offices, and (3) responding to individuals and state or local election officials who contacted their offices about individuals who declared they had applied to register to vote at MVA offices but their names were not on voter registration lists when they went to vote in the November 2004 election.

Election officials representing all but one of the jurisdictions surveyed following the November 2004 election said they faced some challenges managing the voter registration process, including (1) receiving voter registration applications; (2) checking them for completeness, accuracy, and duplication; and (3) entering information into voter registration lists; when challenges occurred, election officials reported they took various steps to address them. Officials in 7 of the 14 jurisdictions reported that their staff faced challenges checking voter registration applications for completeness, accuracy, or duplicates. According to these officials, these challenges occurred for a variety of reasons, including problems contacting individuals to obtain complete and accurate information and insufficient staffing to check the applications. They reported that, among other things, their staff addressed these challenges by sending letters or calling applicants to obtain correct information. Finally, 6 of the 14 election officials reported that their staff faced challenges entering or scanning voter information into registration lists for reasons such as the volume of applications received close to Election Day and problems with the scanning equipment. To address these challenges, they reported that more staff were hired and staff worked overtime.

All but 1 of the jurisdictions reported removing names from registration lists during 2004 for various reasons, including that voters requested that their names be removed from the voter registration list; information from the U.S. Postal Service (USPS) showing that voters had moved outside the jurisdiction; felony records received from federal, state, or local governments identifying voters as ineligible due to felony convictions; and death records received from state or local vital statistics offices. When removing names from registration lists, election officials reported that they took various steps to ensure that the names of eligible voters were not inadvertently removed from voter registration lists. These steps included sending letters or postcards to registrants to verify that voters wanted their names removed; matching voters' identifying information with USPS data and sending voters identified by USPS as having moved outside the jurisdiction notices of removal; and matching voter registration records with felony records or death records to confirm it was the same person.

All of the jurisdictions reported that they permitted citizens to cast provisional ballots during the November 2004 election. In addition, 12 of the 14 jurisdictions to which this was applicable reported that they offered certain first-time voters who registered by mail

the opportunity to cast provisional ballots. Election officials in 13 of the 14 jurisdictions reported that 423,149 provisional ballots were cast, and 70 percent (297,662) were counted. Not all provisional votes were counted because, as election officials reported, not all provisional ballots met states' criteria for determining which ballots should be counted. Reasons that provisional ballots cast during the 2004 election were not counted, as reported by election officials, included, among others, that individuals did not meet the residency eligibility requirements, had not registered or tried to register to vote with the election office, had not submitted the voter registration applications at motor vehicle agency offices, or election officials did not have time to enter information from applicants into their voter registration lists because applications were received at the election offices very close to or after the state registration deadline.

Local election officials in 12 of the 13 jurisdictions 13 we surveyed reported that they set up mechanisms to inform voters—without cost—about the outcome of their provisional votes during the November 2004 election. These mechanisms included toll-free telephone numbers, Web sites, and letters sent to the voters who cast provisional ballots. Election officials also reported that provisional voters in their jurisdictions received written information at their polling places about how to find out the outcome of their provisional ballots, and provisional voters in 8 of the 13 jurisdictions had the opportunity to access information about the outcome of their ballots within 10 days after the election. Finally, election officials representing 8 of the 14 jurisdictions reported facing challenges implementing provisional voting for various reasons, including some poll workers not being familiar with provisional voting or, in one jurisdiction representing a large number of precincts, staff not having sufficient time to process provisional ballots. To address these challenges, the officials reported that they provided additional training to poll workers and hired additional staff to count provisional ballots.

INDIANA ID LITIGATION SUMMARY

MEMORANDUM IN SUPPORT OF DEMOCRATS. MOTION FOR SUMMARY JUDGMENT

Although the proponents of SEA 483 asserted that the law was intended to combat voter fraud, no evidence of the existence of such fraud has ever been provided. No voter has been convicted of or even charged with the offense of misrepresenting his identity for purposes of casting a fraudulent ballot in person, King Dep. 95-96; Mahern Aff. ¶¶ 2-3, though there have been documented instances of absentee ballot fraud. King Dep. 120. Indeed, no evidence of in person, on-site voting fraud was presented to the General Assembly during the legislative process leading up to the enactment of the Photo ID Law. Mahern Aff. ¶¶ 2-

The State cannot show any compelling justification for subjecting only voters who vote in person to the new requirements of the Photo ID Law, while exempting absentee voters who vote by mail or persons who live in state-certified residential facilities. On the other hand, absentee ballots are peculiarly vulnerable to coercion and vote tampering since there is no election official or independent election observer available to ensure that there is no illegal coercion by family members, employers, churches, union officials, nursing home administrators, and others.

The Law gives virtually unbridled discretion to partisan precinct workers and challengers to make subjective determinations such as (a) whether a form of photo identification produced by a voter conforms to what is required by the Law, and (b) whether the voter presenting himself or herself at the polls is in fact the voter depicted in the photo. Robertson Dep. 29-34, 45; King Dep. 86, 89. This is significant because any voter who is challenged under this Law will be required to vote by provisional ballot and to make a special trip to the election board.s office in order to have his vote counted. Robertson Dep. 37; King Dep. 58.

The Photo ID Law confers substantial discretion, not on law enforcement officials, but on partisan precinct poll workers and challengers appointed by partisan political officials, to determine both whether a voter has presented a form of identification which conforms to that required by the Law and whether the person presenting the identification is the person depicted on it. Conferring this degree of discretion upon partisan precinct officials and members of election boards to enforce the facially neutral requirements of the Law has the potential for becoming a means of suppressing a particular point of view.

The State arguably might be justified in imposing uniform, narrowly-tailored and not overly-burdensome voter identification requirements if the State were able to show that there is an intolerably high incidence of fraud among voters misidentifying themselves at the polls for the purpose of casting a fraudulent ballot. But here, the State has utterly failed to show that this genre of fraud is rampant or even that it has ever occurred in the context of on-site, in-person voting (as opposed to absentee voting by mail) so as to justify these extra burdens, which will fall disproportionately on the poor and elderly.

In evaluating the breadth of the law and whether the State has used the least restrictive means for preventing fraud, the Court must take into account the other mechanisms the State currently employs to serve the statute's purported purposes, as well as other, less restrictive means it could reasonably employ. *Krislov*, 226 F.3d at 863. The State of Indiana has made it a felony for a voter to misrepresent his or her identity for purposes of casting a fraudulent ballot.

And where the State has already provided a mechanism for matching signatures, has made it a crime to misrepresent one's identity for purposes of voting, and requires the swearing out of an affidavit if the voter's identity is challenged, it already has provisions more than adequate to prevent or minimize fraud in the context of in-person voting, particularly in the absence of any evidence that the problem the Law seeks to address is anything more than the product of hypothesis, speculation and fantasy.

MEMORANDUM OF THE STATE OF INDIANA, THE INDIANA SECRETARY OF STATE, AND THE CO-DIRECTORS OF THE INDIANA ELECTION DIVISION IN SUPPORT OF THEIR JOINT MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO THE MOTIONS FOR SUMMARY JUDGMENT FILED BY BOTH SETS OF PLAINTIFFS

In-person voter-identity fraud is notoriously difficult to detect and investigate. In his book *Stealing Elections*, John Fund observes that actual in-person voter fraud is nearly undetectable without a voter photo-identification requirement because anybody who provides a name that is on the rolls may vote and then walk away with no record of the person's actual identity. *See generally* John Fund, *Stealing Elections* (2004). The problem is only exacerbated by the increasingly transient nature of society. Documentation of in-person voter fraud often occurs only when a legitimate voter at the polls hears a fraudulent voter trying to use her name, as happened to a woman in California in 1994. *See* Larry J. Sabato & Glenn R. Simpson, *Dirty Little Secrets* 292 (1996).

Regardless of the lack of extensive evidence of in-person voter fraud, the Commission on Federal Election Reform (known as the Baker-Carter Commission) recently concluded that "there is no doubt that it occurs." State Ex. 1, p. 18.¹ Legal cases as well as newspaper and other reports confirm that in-person voter-identity fraud, including voter impersonation, double votes, dead votes, and fake addresses, plague federal and state elections. [The memorandum details several specific cases of various types of alleged voting fraud from the past several years]

Though they are largely unable to study verifiable data concerning in-person voter fraud, scholars are well aware of the conditions that foster fraudulent voting. *See* Fund, *supra*; Sabato & Simpson, *supra*, 321. In particular, fraud has become ever more likely as "it has become more difficult to keep the voting rolls clean of 'deadwood' voters who have moved or died" because such an environment makes "fraudulent voting easier and therefore more tempting for those so inclined." Sabato & Simpson, *supra*, 321. "In

general, experts believe that one in five names on the rolls in Indiana do not belong there.” State Ex. 25.

For this case, Clark Benson, a nationally recognized expert in the collection and analysis of voter-registration and population data, conducted his own examination of Indiana’s voter registration lists and concluded that they are among the most highly inflated in the nation.

The Crawford Plaintiffs cite the concessions by Indiana Election Division Co-Director King and the Intervenor-State that they are unaware of any historical in-person incidence of voter fraud occurring at the polling place (Crawford Brief, p. 23) as conclusive evidence that in-person voter fraud does not exist in Indiana. They also seek to support this conclusion with the testimony of two “veteran poll watchers,” Plaintiff Crawford and former president of the Plaintiff NAACP, Indianapolis Chapter, Roderick E. Bohannon, who testified that they had never seen any instances of in-person voter fraud.

(*Id.*)

At best, the evidence on this issue is in equipoise. While common sense, the experiences of many other states, and the findings of the Baker-Carter Commission all lead to the reasonable inferences that (a) in-person polling place fraud likely exists, but (b) is nearly impossible to detect without requiring photo identification, the State can cite to no confirmed instances of such fraud. On the other hand, the Plaintiffs have no proof that it does not occur.

At the level of logic, moreover, it is just reasonable to conclude that the lack of confirmed incidents of in-person voting fraud in Indiana is the result of an ineffective identification security system as it is to conclude there is no in-person voting fraud in Indiana. So while it is undisputed that the state has no proof that in-person polling place fraud has occurred in Indiana, there does in fact remain a dispute over the existence *vel non* of in-person polling place fraud.

It is also important to understand that the nature of in-person election fraud is such that it is nearly impossible to detect or investigate. Unless a voter stumbles across someone else trying to use her identity, *see* Sabato & Simpson, *supra*, 292, or unless the over-taxed poll worker happens to notice that the voter’s signature is different from her registration signature State Ex. 37, ¶ 9, the chances of detecting such in-person voter fraud are extremely small. Yet, inflated voter-registration rolls provide ample opportunity for those who wish to commit in-person voter fraud. *See* Fund, *supra*, 24, 65, 69, 138; Sabato & Simpson, *supra*, 321. And there is concrete evidence that the names of dead people have been used to cast fraudulent ballots. *See* Fund, *supra*, 64. Particularly in light of Indiana’s highly inflated voter rolls State Ex. 27, p. 9, Plaintiffs’ repeated claims that there has never been any in-person voter fraud in Indiana can hardly be plausible, even if the state is unable to prove that such fraud has in fact occurred.

Summary of the U.S Department of Justice Section 5 Recommendation Memorandum:
August 25, 2005 regarding HB 244 – parts that pertain to the issue of voter fraud.

Overview: Five career attorneys with the civil rights department investigated and analyzed Georgia's election reform law. Four of those attorneys recommended objecting to Section 59, the voter identification requirement. The provision required all voters to present government issued photo identification in order to vote. The objection was based on the attorneys' findings that there was little to no evidence of polling place fraud, the only kind of fraud an ID requirement would address, and that the measure would disenfranchise many voters, predominantly minority voters, in violation of Section 5 of the Voting Rights Act.

Factual Analysis: The sponsor of the measure in the state legislature said she was motivated by the fact that she is aware of vote buying in certain districts; she read John Fund's book; and that "if there are fewer black voters because of this bill, it will only be because there is less opportunity for fraud. She said that when black voters in her black precincts are not paid to vote, they do not go to the polls."

A member of the Fulton County Board of Registrations and Elections said that prior to November 2004, Fulton County received 8,112 applications containing "missing or irregular" information. Only 55 of those registrants responded to BOE letters. The member concluded that the rest must be "bogus" as a result. He also stated that 15,237 of 105,553 precinct cards came back as undeliverable, as did 3,071 cards sent to 45,907 new voters. Of these 3,071, 921 voted.

Secretary of State Cathy Cox submitted a letter testifying to the absence of any complaints of voter fraud via impersonation during her tenure.

In the legal analysis, the attorneys state that if they determine that Georgia could have fulfilled its stated purpose of election fraud, while preventing or ameliorating the retrogression, an objection is appropriate. /They conclude that the state could have avoided retrogression by retaining various forms of currently accepted voter ID for which no substantiated security concerns were raised. Another non-retrogressive alternative would have been to maintain the affidavit alternative for those without ID, since "There is no evidence that penalty of law is an insufficient deterrent to falsely signing an affidavit of identity."

The attorneys point out that the state's recitation of a case upholding voter fraud in Dodge County does not support the purpose of the Act because that case involved vote buying and selling, not impersonation or voting under a false identity.

Securing the Vote: An Analysis of Election Fraud, by Lorraine Minnite

Professor Lori Minnite conducted a comprehensive survey and analysis of vote fraud in the United States. The methodology included doing nexis searches for all 50 states and surveying existing research and reports. In addition, Minnite did a more in-depth study of 12 diverse states by doing nexis searches, studying statutory and case law, and conducting interviews with election officials and attorneys general. Finally, the study includes an analysis of a few of the most high profile cases of alleged fraud in the last 10 years, including the Miami mayoral election (1997), Orange County congressional race (1996), and the general election in Missouri (2000). In these cases, Minnite shows that many allegations of fraud do not end up being meritorious.

Minnite finds that available evidence suggests that the incidence of election fraud is minimal and rarely affects election outcomes. Election officials generally do a very good job of protecting against fraud. Conditions that give rise to election fraud have steadily declined over the last century as a result of weakened political parties, strengthened election administration, and improved voting technology. There is little available evidence that election reforms such as the National Voter Registration Act, election day registration, and mail-in voting have resulted in increases in election fraud.

Election fraud appears also to be very rare in the 12 states examined more in-depth. Legal and news records turned up little evidence of significant fraud in these states or any indication that fraud is more than a minor problem. Interviews with state officials further confirmed this impression.

Minnite found that, overall, the absentee mail-in ballot process is the feature most vulnerable to voter fraud. There is not a lot of evidence of absentee ballot fraud but the potential for fraud is greatest in this area because of a lack of uniformly strong security measures in place in all states to prevent fraud.

Minnite suggest several reforms to prevent what voter fraud does take place. These include effective use of new statewide voter registration databases; identification requirements for first time voters who register by mail should be modified to expand the list of acceptable identifying documents; fill important election administration positions with nonpartisan professionals; strengthen enforcement through adequate funding and authority for offices responsible for detecting and prosecuting fraud; and establish Election Day Registration because it usually requires voter identification and authorization in person before a trained election worker, which reduces the opportunity for registration error or fraud.

Shattering the Myth: An Initial Snapshot of Voter Disenfranchisement in the 2004 Elections, People for the American Way, NAACP, Lawyers Committee for Civil Rights

Shattering the Myth is a description and analysis of the complaints and allegations of voting irregularities gathered by the Election Protection program during the 2004 presidential election. Election Protection was an effort involving hundreds of organizations and thousands of citizens to protect the voting rights of Americans across the country. The project included sending thousands of monitors to the polls and hosting a national toll free voters' rights hotline. EP mounted extensive field efforts in 17 states.

Election Protection received more than a thousand complaints of voter suppression or intimidation. Complaints ranged from intimidating experiences at polling places to coordinated suppression tactics. For example:

- Police stationed outside a Cook County, Illinois, polling place were requesting photo ID and telling voters if they had been convicted of a felony that they could not vote.
- In Pima, Arizona, voters at multiple polls were confronted by an individual, wearing a black tee shirt with "US Constitution Enforcer" and a military-style belt that gave the appearance he was armed. He asked voters if they were citizens, accompanied by a cameraman who filmed the encounters.
- There were numerous incidents of intimidation by partisan challengers at predominately low income and minority precincts
- Voters repeatedly complained about misinformation campaigns via flyers or phone calls encouraging them to vote on a day other than November 2, 2004 or of false information regarding their right to vote. In Polk County, Florida, for example, a voter received a call telling her to vote on November 3. Similar complaints were also reported in other counties throughout Florida. In Wisconsin and elsewhere voters received flyers that said:
 - "If you already voted in any election this year, you can't vote in the Presidential Election."
 - "If anybody in your family has ever been found guilty of anything you can't vote in the Presidential Election."
 - "If you violate any of these laws, you can get 10 years in prison and your children will be taken away from you."

There were also numerous reports of poll workers refusing to give voters provisional ballots.

The following is a summary of the types of acts of suppression and intimidation included in the report and a list of the states in which they took place. All instances of irregularities that were more administrative in nature have been omitted:

1. Improper implementation of voter identification rules, especially asking only African Americans for proof of identity: Florida, Ohio, Pennsylvania, Illinois, Missouri, Arkansas, Georgia, Louisiana

2. Individuals at the polls posing as some sort of law enforcement authority and intimidating and harassing voters: Arizona, Missouri
3. Intimidating and harassing challengers at the polls: Ohio, Michigan, Wisconsin, Missouri, Minnesota
4. Deceptive practices and disinformation campaigns, such as the use of flyers with intentional misinformation about voting rights or voting procedures, often directed at minority communities; the use of phone calls giving people misinformation about polling sites and other procedures; and providing verbal misinformation at the polls in a way that appears to have been intentionally misleading: Florida, Pennsylvania, Illinois, Wisconsin, Missouri, North Carolina, Arkansas, Texas
5. Refusal to provide provisional ballots to certain voters: Ohio, Pennsylvania, Illinois, Michigan, Colorado, Missouri, Texas, Georgia, Louisiana
6. Registration applications submitted through third parties that were not processed: Arizona, Michigan, Nevada (registration forms destroyed by Sproul Associates)
7. Improper removal from the voter registration list: Arizona
8. Individuals questioning voters' citizenship: Arizona
9. Police officers at the polls intimidating voters: Illinois, Michigan, Wisconsin, Missouri, North Carolina

The report does not provide corroborating evidence for the allegations it describes. However, especially in the absence of a log of complaints received by the Department of Justice, this report provides a very useful overview of the types of experiences some voters more than likely endured on Election Day in 2004.

Interview with Sarah Bell Johnson Interview

April 19, 2006

Procedures for Handling Fraud

Fraud complaints are directed first to the state Board of Elections. Unlike boards in other states, Kentucky's has no investigative powers. Instead, they work closely with both the Attorney General and the U.S. Attorney. Especially since the current administration took office, they have found the U.S. Attorney an excellent partner in pursuing fraud cases, and have seen many prosecutions in the last six years. She believes that there has been no increase in the incidence of fraud, but rather the increase in prosecutions is related to increased scrutiny and more resources.

Major Types of Fraud and Intimidation

Johnson says that vote buying and voter intimidation go hand in hand in Kentucky. While historically fraud activity focused on election day, in the last 20 years it has moved into absentee voting. In part, this is because new voting machines aren't easy to manipulate in the way that paper ballots were open to manipulation in the past, especially in distant rural counties. For this reason, she is troubled by the proliferation of states with early voting, but notes that there is a difference between absentee ballot and early voting on machines, which is far more difficult to manipulate.

Among the cases of absentee ballot fraud they have seen, common practice involves a group of candidates conspiring together to elect their specific slate. Nursing homes are an especially frequent target. Elderly residents request absentee ballots, and then workers show up and 'help' them vote their ballots. Though there have been some cases in the Eastern district of election day fraud, most have been absentee.

Johnson argues that it is hard to distinguish between intimidation and vote buying. They have also seen instances where civic groups and church groups intimidate members to vote in a specific manner, not for reward, but under threat of being ostracized or even telling them they will go to hell.

While she is aware of allegations of intimidation by the parties regarding minority precincts in Louisville, the board hasn't received calls about it and there haven't been any prosecutions.

Challengers

Challengers are permitted at the polls in Kentucky. Each party is allowed two per location, and they must file proper paperwork. There is a set list of defined reasons for which they can challenge a voter, such as residency, and the challengers must also fill out paperwork to conduct a challenge.

As for allegations of challengers engaging in intimidation in minority districts, Johnson notes that challengers did indeed register in Jefferson County, and filed the proper paperwork, although they ultimately did not show up on election day.

She finds that relatively few challengers end up being officially registered, and that the practice has grown less common in recent years. This is due more to a change of fashion than anything. And after all, those wishing to affect election outcomes have little need for challengers in the precinct when they can target absentee voting instead.

In the event that intimidation is taking place, Kentucky has provisions to remove disruptive challengers, but this hasn't been used to her knowledge.

Prosecutions

Election fraud prosecutions in Kentucky have only involved vote buying. This may be because that it is easier to investigate, by virtue of a cash and paper trail which investigators can follow. It is difficult to quantify any average numbers about the practice from this, due in part to the five year statute of limitations on vote buying charges. However, she does not believe that vote-buying is pervasive across the state, but rather confined to certain pockets.

Vote-hauling Legislation

Vote hauling is a common form of vote buying by another name. Individuals are legally paid to drive others to the polls, and then divide that cash in order to purchase votes. Prosecutions have confirmed that vote hauling is used for this purpose. While the Secretary of State has been committed to legislation which would ban the practice, it has failed to pass in the past two sessions.

Paying Voter Registration Workers Legislation

A law forbidding people to pay workers by the voter registration card or for obtaining cards with registrations for a specific party was passed this session. Individuals working as part of a registration campaign may still be paid by hour. Kentucky's experience in the last presidential election illustrates the problems arising from paying individuals by the card. That contest included a constitutional amendment to ban gay marriage on the ballot, which naturally attracted the attention of many national groups. One group paying people by the card resulted in the registrar being inundated with cards, including many duplicates in the same bundle, variants on names, and variants on addresses. As this practice threatens to overwhelm the voter registration process, Kentucky views it as constituting malicious fraud.

Deceptive practices

Other than general reports in the news, Johnson hasn't received any separate confirmation or reports of deceptive practices, i.e., false and misleading information being distributed to confuse voters.

Effect of Kentucky's Database

Johnson believes Kentucky's widely praised voter registration database is a key reason why the state doesn't have as much fraud as it might, especially the types alleged elsewhere like double and felon voting. While no database is going to be perfect, the connections with other state databases such as the DMV and vital statistics have been invaluable in allowing them to aggressively purge dead weight and create a cleaner list. When parties use their database list they are notably more successful. Johnson wonders how other states are able to conduct elections without a similar system.

Some factors have made especially important to their success. When the database was instituted in 1973, they were able to make everyone in the state re-register and thus start with a clean database. However, it is unlikely any state could get away with this today.

She is also a big supporter of a full Social Security number standard, as practiced in Kentucky. The full Social Security, which is compared to date of birth and letters in the first and last name, automatically makes matching far more accurate. The huge benefits Kentucky has reaped make Johnson skeptical of privacy concerns arguing for an abbreviated Social Security number. Individuals are willing to submit their Social Security number for many lesser purposes, so why not voting? And in any event, they don't require a Social Security number to register (unlike others such as Georgia). Less than a percent of voters in Kentucky are registered under unique identifiers, which the Board of Elections then works to fill in the number through cross referencing with the DMV.

Recommendations

Johnson believes the backbone of effective elections administration must be standardized procedures, strong record keeping, and detailed statutes. In Kentucky, all counties use the same database and the same pre election day forms. Rather than seeing that as oppressive, county officials report that the uniformity makes their jobs easier.

This philosophy extends to the provisional ballot question. While they did not have a standard in place like HAVA's at the time of enactment, they worked quickly to put a uniform standard in place.

They have also modified forms and procedures based on feedback from prosecutors. Johnson believes a key to enforcing voting laws is working with investigators and prosecutors and ensuring that they have the information they need to mount cases.

She also believes public education is important, and that the media could do more to provide information about what is legal and what is illegal. Kentucky tries to fulfill this role by information in polling places, press releases, and high profile press conferences before elections. She notes that they deliberately use language focusing on fraud *and* intimidation.

Johnson is somewhat pessimistic about reducing absentee ballot fraud. Absentee ballots do have a useful function for the military and others who cannot get to the polling place, and motivated

individuals will always find a way to abuse the system if possible. At a minimum, however, she recommends that absentee ballots should require an excuse. She believes this has helped reduce abuse in Kentucky, and is wary of no-excuse practices in other states.

Interview with Steve Ansolobhere and Chandler Davidson

February 17, 2006

Methodology suggestions

In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources: the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that asks whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. Mr. Ansolobhere recommended Jonathan Krosnick, Doug Rivers, and Paul Sniderman at Stanford; Donald Kinder and Arthur Lupia at Michigan; Edward Carmines at Indiana; and Phil Tetlock at Berkeley. In the alternative, Mr. Ansolobhere suggested that the EAC might work with the Census Bureau to have them ask different, additional questions in their Voter Population Surveys.

Mr. Chandler further suggested it is important to talk to private election lawyers, such as Randall Wood, who represented Ciro Rodriguez in his congressional election in Texas. Mr. Ansolobhere also recommended looking at experiments conducted by the British Election Commission.

Incidents of Fraud and Intimidation

Mr. Davidson's study for the Lawyers Committee for Civil Rights on the Voting Rights Act documented evidence of widespread difficulty in the voting process. However, he did not attempt to quantify whether this was due to intentional, malevolent acts. In his 2005 report on ballot security programs, he found that there were many allegations of fraud made, but not very many prosecutions or convictions. He saw many cases that did go to trial and the prosecutors lost on the merits.

In terms of voter intimidation and vote suppression, Mr. Davidson said he believes the following types of activities do occur: videotaping of voters' license plates; poll workers asking intimidating questions; groups of officious-looking poll watchers at the poll sites who seem to be some sort of authority looking for wrongdoing; spreading of false information, such as phone calls, flyers, and radio ads that intentionally mislead as to voting procedures.

Mr. Ansolobhere believes the biggest problem is absentee ballot fraud. However, many of these cases involve people who do not realize what they are doing is illegal, for example, telling someone else how to vote. Sometimes there is real illegality occurring however. For example, vote selling involving absentee ballots, the filling out of absentee ballots en masse, people at nursing homes filling out the ballots of residents, and there are stories about union leaders getting members to vote a certain way by absentee ballot. This

problem will only get bigger as more states liberalize their absentee ballot rules. Mr. Chandler agreed that absentee ballot fraud was a major problem.

Recommendations

Go back to “for cause” absentee ballot rules, because it is truly impossible to ever ensure the security of a mail ballot. Even in Oregon, there was a study showing fraud in their vote by mail system.

False information campaigns should be combated with greater voter education. Los Angeles County’s voter education program should be used as a model.

Interview with Tracy Campbell, author

March 3, 2006

Background

Campbell's first book on election fraud looked at Ed Pritchard, a New Deal figure who went to jail for stuffing ballot boxes. While his initial goal in writing that book was to find out why Pritchard had engaged in vote stealing, his growing understanding of a pervasive culture of electoral corruption led him to consider instead how it was that Pritchard was ever caught. In 1998, he started working on a book regarding fraud in Kentucky, which quickly became a national study. He hoped to convey the 'real politics' which he feels readers, not to mention academics, have little sense about. While less blatant than in previous eras, fraud certainly still occurs, and he mentions some examples in his book. The major trend of the past 60-70 years has been that these tactics have grown more subtle.

While he hasn't conducted any scientific study of the current state of fraud, his sense as a historian is that it seems naive, after generations of watching the same patterns and practices influence elections, to view suspect election results today as merely attributable to simple error.

Vote-buying and absentee fraud

Campbell sees fraud by absentee ballot and vote buying as the greatest threats to fair elections today. He says vote fraud is like real estate: location, location, location—the closer you can keep the ballots to the courthouse the better. Absentee ballots create a much easier target for vote brokers who can manage voting away from the polling place, or even mark a ballot directly, in exchange for, say, \$50—or even more if an individual can bring their entire family. He has noted some small counties where absentee ballots outnumber in-person ballots.

However, few people engaged in this activity would call it 'purchasing' a vote. Instead, it is candidate Jones' way of 'thanking' you for a vote you would have cast in any event. The issue is what happens if candidate Smith offers you more. Likewise, the politicians who engage in vote fraud don't see it as a threat to the republic but rather as a game they have to play in order to get elected.

Regional patterns

Campbell suggests such practices are more prevalent in the South than the Northern states, and even more so compared to the West. The South has long been characterized as particularly dangerous in intimidation and suppression practices—throughout history, one can find routine stories of deaths at the polls each year. While he maintains that fraud seems less likely in the Western states, he sees the explosion of mail in and absentee ballots there as asking for trouble.

Poll site closings as a means to suppress votes

Campbell points to a long historical record of moving poll sites in order to suppress votes. Polling places in the 1800s were frequently set-up on rail cars and moved further down the line to suppress black votes.

He would include door-to-door canvassing practices here, as well as voting in homes, which was in use in Kentucky until only a few years ago. All of these practices have been justified as making polling places 'more accessible' while their real purpose has been to suppress votes.

Purge lists

Purge lists are, of course, needed in theory, yet Campbell believes the authority to mark names off the voter rolls presents extensive opportunity for abuse. For this reason, purging must be done in a manner that uses the best databases, and looks at only the most relevant information. When voters discover their names aren't on the list when they go to vote, for example, because they are "dead," it has a considerable demoralizing effect. Wrongful purging takes place both because of incompetence and as a tool to intentionally disenfranchise.

Campbell believes transparency is the real issue here. An hour after the polls close, we tend to just throw up our hands and look the other way, denying voters the chance to see that discrepancies are being rectified. He believes the cost in not immediately knowing election outcomes is a small price to pay for getting results right and showing the public a transparent process.

Deceptive practices

Today's deceptive practices have are solidly rooted in Reconstruction-era practices—i.e. phony ballots, the Texas 'elimination' ballot. The ability to confuse voters is a powerful tool for those looking to sway elections.

Language minorities

Campbell argues there is a fine line between offering help to non-English speakers and using that help against them. A related issue, particularly in the South, is taking advantage of the illiterate.

Current intimidation

Another tactic Campbell considers an issue today is polling place layout: the further vote suppressers can keep people away from the polls, the better. Practices such as photographing people leaving a polling place may also tie into vote-buying, where photos are used to intimidate and validate purchased votes. A good way to combat such practices is by keeping electioneering as far from the polls as possible.

Recommendations

Specific voting administration recommendations Campbell advocates would include reducing the use of absentee ballots and improving the protective zone around polling places.

Campbell would also like to see enforcement against fraud stepped up and stiffer penalties enacted, as current penalties make the risk of committing fraud relatively low. He compares the risk in election fraud similar to steroid use in professional sports—the potential value of the outcome is far higher than the risk of being caught or penalized for the infraction, so it is hard to prevent people from doing it. People need to believe they will pay a price for engaging in fraud or intimidation. Moreover, we need to have the will to kick people out of office if necessary.

He is skeptical of the feasibility of nonpartisan election administration, as he believes it would be difficult to find people who care about politics yet won't lean one way or the other—such an attempt would be unlikely to get very far before accusations of partisanship emerged. He considers the judiciary the only legitimate check on election fraud.

Interview with Wade Henderson, Executive Director, Leadership Conference for Civil Rights

February 14, 2006

Data Collection

Mr. Henderson had several recommendations as to how to better gather additional information and data on election fraud and intimidation in recent years. He suggested interviewing the following individuals who have been actively involved in Election Protection and other similar efforts:

- Jon Greenbaum, Lawyers Committee for Civil Rights
- Tanya Clay, People for the American Way
- Melanie, Campbell, National Coalition for Black Political Participation
- Larry Gonzalez, National Association of Latino Election Officers
- Jacqueline Johnson, National Congress of American Indians
- Chellie Pingree, Common Cause
- Jim Dickson, disability rights advocate
- Mary Berry, former Chair of the US Commission on Civil Rights, currently at the University of Pennsylvania
- Judith Browne and Eddie Hailes, Advancement Project (former counsel to the US Commission on Civil Rights)
- Robert Rubin, Lawyers Committee for Civil Rights – San Francisco Office
- Former Senator Tom Daschle (currently a fellow at The Center for American Progress)

He also recommended we review the following documents and reports:

- The 2004 litigation brought by the Advancement Project and SEIU under the 1981 New Jersey Consent Decree
- Forthcoming LCCR state-by-state report on violations of the Voting Rights Act
- Forthcoming Lawyers Committee report on violations of the Voting Rights Act (February 21)

Types of Fraud and Intimidation Occurring

Mr. Henderson said he believed that the kinds of voter intimidation and suppression tactics employed over the last five years are ones that have evolved over many years. They are sometimes racially based, sometimes based on partisan motives. He believes the following types of activity have actually occurred, and are not just a matter of anecdote and innuendo, and rise to the level of either voter intimidation or vote suppression:

- Flyers with intentional misinformation, such as ones claiming that if you do not have identification, you cannot vote, and providing false dates for the election
- Observers with cameras, which people associate with potential political retribution or even violence

- Intimidating police presence at the polls
- Especially in jurisdictions that authorize challenges, the use of challenge lists and challengers goes beyond partisanship to racial suppression and intimidation
- Unequal deployment of voting equipment, such as occurred in Ohio. Also, he has seen situations in which historically Black colleges will have one voting machine while other schools will have more.

Mr. Henderson believes that these matters are not pursued formally because often they involve activities that current law does not reach. For example, there is no law prohibiting a Secretary of State from being the head of a political campaign, and then deploying voting machines in an uneven manner. There is no way to pursue that. Also, once the election is over, civil litigation becomes moot. Finally, sometimes upon reflection after the campaign, some of the activities are not as sinister as believed at the time.

Mr. Henderson believes government does not engage in a sustained investigation of these matters or pursue any kind of resolution to them. LCCR has filed a FOIA request with both the Civil Rights Division and the Criminal Division of the Department of Justice to examine this issue.

Election Protection activities will be intensified for the 2006 elections, although the focus may shift somewhat given the implementation of new HAVA requirements.

Recommendations for Reform

There was tremendous concern after the 2004 election about conflicts of interest – the “Blackwell problem” – whereby a campaign chair is also in charge of the voting system. We need to get away from that.

He also supports Senator Barak Obama’s bill regarding deceptive practices, and is opposed to the voter identification laws passing many state legislatures.

- States should adopt election-day registration, in order to boost turnout as well as to allow eligible voters to immediately rectify erroneous or improperly purged registration records
- Expansion of early voting & no-excuse absentee voting, to boost turnout and reduce the strain on election-day resources.
- Provisional ballot reforms:
 - Should be counted statewide – if cast in the wrong polling place, votes should still be counted in races for which the voter was eligible to vote (governor, etc.)
 - Provisional ballots should also function as voter registration applications, to increase the likelihood that voters will be properly registered in future elections
- Voter ID requirements: states should allow voters to use signature attestation to establish their identity

- The Department of Justice should increase enforcement of Americans with Disabilities Act and the accessibility requirements of the Help America Vote Act
- Statewide registration databases should be linked to social service agency databases
- Prohibit chief state election officials from simultaneously participating in partisan electoral campaigns within their states
- Create and enforce strong penalties for deceptive or misleading voting practices

Interview with Wendy Weiser, Deputy Director, Democracy Program, The Brennan Center

Brennan Center findings on fraud

The Brennan Center's primary work on fraud is their report for the Carter Baker Commission with commissioner Spencer Overton, written in response to the Commission's ID recommendations. Brennan reviewed all existing reports and election contests related to voter fraud. They believe the contests serve as an especially good record of whether or not fraud exists, as the parties involved in contested elections have a large incentive to root out fraudulent voters. Yet despite this, the incidence of voter impersonation fraud discovered is extremely low—something on the order 1/10000th of a percentage of voters. See also the brief Brennan filed on 11th circuit in Georgia photo ID case which cites sources in Carter Baker report and argues the incidence of voter fraud too low to justify countermeasures.

Among types of fraud, they found impersonation, or polling place fraud, is probably the least frequent type, although other types, such as absentee ballot fraud are also very infrequent. Weiser believes this is because impersonation fraud is more likely to be caught and is therefore not worth the risk. Unlike in an absentee situation, actual poll workers are present to disrupt impersonation fraud, for instance, by catching the same individual voting twice. She believes perhaps one half to one quarter of the time the person will be caught. Also, there is a chance the pollworker will have personal knowledge of the person. Georgia Secretary of State Cathy Cox has mentioned that there are many opportunities for discovery of in person fraud as well. For example, if one votes in the name of another voter, and that voter shows up at the polls, the fraud will be discovered.

Weiser believes court proceedings in election contests are especially useful. Some are very extensive, with hundreds of voters brought up by each side and litigated. In both pre-election challenges and post-election contests, parties have devoted extraordinary resources into 'smoking out' fraudulent voters. Justin Leavitt at Brennan scoured such proceedings for the Carter Baker report, which includes these citations. Contact him for answers to particular questions.

Countermeasures/statewide databases

Brennan has also considered what states are doing to combat impersonation fraud besides photo ID laws, although again, it seems to be the rarest kind of fraud, beyond statistically insignificant. In the brief Brennan filed in the Georgia case, the Center detailed what states are already doing to effectively address fraud. In another on the web site includes measures that can be taken that no states have adopted yet. Weiser adds that an effort to look at strategies states have to prevent fraud, state variations, effectiveness, ease of enforcement would be very useful.

Weiser believes the best defense against fraud will be better voter lists—she argues the fraud debate is actually premature because states have yet to fully implement the HAVA database requirement. This should eliminate a great deal of 'deadwood' on voter rolls and undermine the

common argument that fraud is made possible by this deadwood. This was the experience for Michigan, which was able to remove 600,000 names initially, and later removed almost 1 million names from their rolls. It is fairly easy to cull deadwood from lists due to consolidation at the state level—most deadwood is due to individuals moving within the state and poor communication between jurisdictions. (Also discuss with Chris Thomas, who masterminded the Michigan database for more information and a historical perspective.)

Regarding the question of whether the effect of this maintenance on fraud in Michigan can be quantified, Weiser would caution against drawing direct lines between list problems and fraud. Brennan has found various groups abusing the existence of list deadwood to make claims about fraudulent voting. This is analyzed in greater detail in the Brennan Center's critique of a purge list produced by the NJ Republican party, and was illustrated by the purge list produced by the state of Florida. When compiling such lists and doing comparisons, sound statistical methods must be utilized, and often are not.

The NJ GOP created a list and asked NJ election officials to purge names of ineligible voters on it. Their list assumed that people appearing on the list twice had voted twice. Brennan found their assumptions shoddy and based on incorrect statistical practices, such as treating individuals with the same name and birthdays as duplicates, although this is highly unlikely according to proper statistical methods. Simply running algorithms on voter lists creates a number of false positives, does not provide an accurate basis for purging, and should not be taken as an indicator of fraud.

Regarding the Florida purge list, faulty assumptions caused the list to systematically exclude Hispanics while overestimating African Americans. Matching protocols required that race fields match exactly, despite inconsistent fields across databases.

The kinds of list comparisons that are frequently done to allege fraud are unreliable. Moreover, even if someone is on a voter list twice, that does not mean that voter has voted twice. That, in fact, is almost never the case.

Ultimately, even matching protocols without faulty assumptions will have a 4 percent to 35 percent error rate—that's simply the nature of database work. Private industry has been working on improving this for years. Now that HAVA has introduced a matching requirement, even greater skepticism is called for in judging the accuracy of list maintenance.

Intimidation and Suppression

Brennan does not have a specific focus here, although they do come across it and have provided assistance on bills to prevent suppression and intimidation. They happen to have an extensive paper file of intimidating fliers and related stories from before the 2004 election. (They can supply copies after this week).

Challengers

Brennan has analyzed cases where challenger laws have been beneficial and where they have been abused. See the decision and record from the 1982 NJ vs. RNC case for some of the history of these laws. Brennan is currently working on developing a model challenger law.

Weiser believes challenge laws with no requirement that the challenger have any specific basis for the challenge or showing of ineligibility are an invitation to blanket harassing challenges and have a range of pitfalls. State laws are vague and broad and often involve arcane processes such as where voters are required to meet a challenge within 5 days. There are incentives for political abuse, potential for delaying votes and disrupting the polls, and they are not necessarily directed toward the best result. Furthermore, when a voter receives a mailer alleging vote fraud with no basis, even the mere fact of a challenge can be chilling. A voter does not want to have to go through a quasi-court proceeding in order to vote.

Brennan recommends challenge processes that get results before election, minimize the burden for voters, and are restricted at polling place to challenges by poll workers and election officials, not voters. They believe limitless challenges can lead to pandemonium—that once the floodgates are open they won't stop.

Recommendations

Intimidation— Weiser believes Sen. Barak Obama's bill is a good one for combating voter harassment and deceptive practices. Many jurisdictions do not currently have laws prohibiting voter harassment and deceptive practices.

Fraud— Current state and federal codes seem sufficient for prosecuting fraud. Weiser doesn't consider them under-enforced, and sees no need for additional laws.

Voter lists— New legislation or regulations are needed to provide clear guidance and standards for generating voter lists and purging voters, otherwise states could wrongfully disenfranchise eligible voters.

Challengers—Challenge laws need to be reformed, especially ones that allow for pre-election mass challenges with no real basis. There is no one size fits all model for challenger legislation, but some bad models involving hurdles for voters lead to abuse and should be reformed. There should be room for poll workers to challenge fraudulent voters, but not for abuse.

Also useful would be recommendations for prosecutors investigating fraudulent activity, How should they approach these cases? How should they approach cases of large scale fraud/intimidation? While there is sufficient legislative cover to get at any election fraud activity, questions remain about what proper approaches and enforcement strategies should be.

Interview with Bill Groth, Attorney for the Plaintiffs in Indiana Identification Litigation

February 22, 2006

Fraud in Indiana

Indiana has never charged or prosecuted anyone for polling place fraud. Nor has any empirical evidence of *voter impersonation* fraud or dead voter fraud been presented. In addition, there is no record of any credible complaint about *voter impersonation* fraud in Indiana. State legislators signed an affidavit that said there had never been impostor voting in Indiana. At the same time, the Indiana Supreme Court has not necessarily required evidence of voter fraud before *approving* legislative attempts to address fraud.

The state attorney general has conceded that there is no concrete fraud in Indiana, but has instead referred to instances of fraud in other states. Groth filed a detailed motion to strike evidence such as John Fund's book relating to other states, arguing that none of that evidence was presented to the legislature and that it should have been in the form of sworn affidavits, so that it would have some indicia of verifiability.

Photo ID law

By imposing restrictive ID measures, Groth contends you will discourage 1,000 times more legitimate voters than illegitimate voters you might protect against. He feels the implementation of a REAL ID requirement is an inadequate justification for the law, as it will not affect the upcoming 2006 election where thousands of registered voters will be left without proper ID. In addition, he questions whether REAL ID will be implemented as planned in 2008 considering the backlash against the law so far. He also feels ID laws are unconstitutional because of inconsistent application.

Statewide database as remedy

Groth believes many problems will be addressed by the statewide database required under HAVA. To the extent that the rolls in Indiana are bloated, it is because state officials have not complied with NVRA list maintenance requirements. Thus, it is somewhat disingenuous for them to use bloated voter rolls as a reason for imposing additional measures such as the photo ID law. Furthermore, the state has ceded to the counties the obligation to do maintenance programs, which results in a hit or miss process (see discussion in reply brief, p 26 through p. 28).

Absentee fraud

To the extent that there has been an incidence of fraud, these have all been confined to absentee balloting. Most notably the East Chicago mayoral election case where courts found absentee voting fraud had occurred. See: Pabey vs. Pastrick 816 NE 2nd 1138 Decision by the Indiana Supreme Court in 2004.

Intimidation and vote suppression

Groth is only aware of anecdotal evidence supporting intimidation and suppression activities. While he considers the sources of this evidence credible, it is still decidedly anecdotal. Instances he is aware of include police cars parked in front of African American polling places. However, most incidents of suppression which are discussed occurred well in the past. Trevor Davidson claims a fairly large scale intimidation program in Louisville.

Challengers

There was widespread information that the state Republican Party had planned a large scale challenger operation in Democratic precincts for 2004, but abandoned the plan at the last minute.

Last year the legislature made a crucial change to election laws which will allow partisan challengers to be physically inside the polling area next to members of the precinct board. Previously, challengers at the polling place have been restricted to the 'chute,' which provides a buffer zone between voting and people engaging in political activity. That change will make it much easier to challenge voters. As there is no recorded legislative history in Indiana, it is difficult to determine the justification behind this change. As both chambers and the governorship are under single-party control, the challenger statute was passed under the radar screen.

Photo ID and Challengers

Observers are especially concerned about how this change will work in conjunction with the photo ID provision. Under the law, there are at least two reasons why a member of the precinct board or a challenger can raise object to an ID: whether a presented ID conforms to ID standards, and whether the photo on an ID is actually a picture of the voter presenting it. The law does not require bipartisan agreement that a challenge is valid. All it takes is one challenge to raise a challenge to that voter, and that will lead to the voter voting by provisional ballot.

Provisional ballot voting means that voter must make a second trip to the election board (located at the county seat) within 13 days to produce the conforming ID or to swear out an affidavit that they are who they claim to be. This may pose a considerable burden to voters. For example, Indianapolis and Marion County are coterminous—anyone challenged under the law will be required to make second trip to seat of government in downtown Indianapolis. If the voter in question did not have a driver's license in the first place, they will likely need to arrange transportation. Furthermore, in most cases the election result will already be known.

The law is vague about acceptable cause for challenging a voter's ID. Some requirements for valid photo ID include being issued by state or fed gov't, w/ expiration date, and the names must conform exactly. The League of Women Voters is concerned about voters

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with hyphenated names, as the Indiana DMV fails to put hyphens on driver's licenses potentially leading to a basis for challenge. Misspelling of names would also be a problem. The other primary mode of challenge is saying the photo doesn't look like the voter, which could be happen in a range of instances. Essentially, the law gives unbridled discretion to challengers to decide what conforms and what does not.

Furthermore, there is no way to determine whether a challenge is in good or bad faith, and *there is* little penalty for making a bad faith challenge. The fact that there are no checks on the challenges at the precinct level, or even a requirement of concurrence from an opposing party challenger leads to the concern that challenge process will be abused. The voter on the other hand, will need to get majority approval of county election board members to defeat the challenge.

Groth suggests the political situation in Indianapolis also presents a temptation to abuse this process, as electoral margins are growing increasingly close due to shifting political calculus.

Other cases

Groth's other election law work has included a redistricting dispute, a dispute over ballot format, NVRA issues, and a case related to improper list purging, but nothing else related to fraud or intimidation. The purging case involved the election board attempting to refine its voter list by sending registration postcards to everyone on the list. When postcards didn't come back they wanted to purge those voters. Groth blames this error more on incompetence, than malevolence, however, as the county board is bipartisan. (The Indiana Election Commission and the Indiana election division are both bipartisan, but the 92 county election boards which will be administering photo id are controlled by one political party or the other—they are always an odd number, with the partisan majority determined by who controls the clerk of circuit court office.)

Recommendations

Supports nonpartisan administration of elections. Indiana specific recommendations including a longer voting day, time off for workers to vote, and an extended registration period.

He views the central problem of the Indiana photo ID law is that the list of acceptable forms of ID is too narrow and provides no fallback to voters without ID. At the least, he believes the state needs to expand the list so that most people will have at least one. If not, they should be allowed to swear an affidavit regarding their identity, under penalty of perjury/felony prosecution. This would provide sufficient deterrence for anyone considering impersonation fraud. He believes absentee ballot fraud should be addressed by requiring those voters to produce ID as well, as under HAVA.

His personal preference would be signature comparison. Indiana has never encountered an instance of someone trying to forge a name in the poll book, and while this leaves

open the prospect of dead voters, that danger will be substantially diminished by the statewide database. But if we are going to have some form of ID, he believes we should apply it to everyone and avoid disenfranchisement, provided they swear an affidavit.

Interview with Neil Bradley, February 21, 2004

Voter Impersonation Cases (issue the Georgia ID litigation revolves around)

Mr. Bradley asserted that Georgia Secretary of State Cox stated in the case at issue: that she clearly would know if there had been any instances of voter impersonation at the polls; that she works very closely with the county and local officials and she would have heard about voter impersonation from them if she did not learn about it directly; and that she said that she had not heard of "any incident"---which includes acts that did not rise to the level of an official investigation or charges.

Mr. Bradley said that it is also possible to establish if someone has impersonated another voter at the polls. Officials must check off the type of voter identification the voter used. Voters without ID may vote by affidavit ballot. One could conduct a survey of those voters to see if they in fact voted or not.

The type of voter fraud that involves impersonating someone else is very unlikely to occur. If someone wants to steal an election, it is much more effective to do so using absentee ballots. In order to change an election outcome, one must steal many votes. Therefore, one would have to have lots of people involved in the enterprise, meaning there would be many people who know you committed a felony. It's simply not an efficient way to steal an election.

Mr. Bradley is not aware of any instance of voter impersonation anywhere in the country except in local races. He does not believe it occurs in statewide elections.

Voter fraud and intimidation in Georgia

Georgia's process for preventing ineligible ex-felons from casting ballots has been improved since the Secretary of State now has the power to create the felon purge list. When this was the responsibility of the counties, there were many difficulties in purging felons because local officials did not want to have to call someone and ask if he or she was a criminal.

The State Board of Elections has a docket of irregularity complaints. The most common involve an ineligible person mailing in absentee ballots on behalf of another voter.

In general, Mr. Bradley does not think voter fraud and intimidation is a huge problem in Georgia and that people have confidence in the vote. The biggest problems are the new ID law; misinformation put out by elections officials; and advertisements that remind people that vote fraud is a felony, which are really meant to be intimidating. Most fraud that does occur involves an insider, and that's where you find the most prosecutions. Any large scale fraud involves someone who knows the system or is in the courthouse.

Prosecution of Fraud and Intimidation

Mr. Bradley stated that fraud and intimidation are hard to prosecute. However, Mr. Bradley made contradictory statements. When asked whether the decision to prosecute on the county level was politically motivated, he first said "no." Later, Mr. Bradley reversed himself stating the opposite.

Mr. Bradley also stated that with respect to US Attorneys, the message to them from the top is that this is not a priority. The Georgia ACLU has turned over information about violations of the Voting Rights Act that were felonies, and the US Attorney has done nothing with the information. The Department of Justice has never been very aggressive in pursuing cases of vote suppression, intimidation and fraud. But, the Georgia ACLU has not contacted Craig Donsanto in DC with information of voter fraud.

Mr. Bradley believes that voter fraud and intimidation is difficult to prove. It is very hard to collect the necessary factual evidence to make a case, and doing so is very labor-intensive.

Recommendations

In Georgia, the Secretary of State puts a lot of work into training local officials and poll workers, and much of her budget is put into that work. Increased and improved training of poll workers, including training on how to respectfully treat voters, is the most important reform that could be made.

Mr. Bradley also suggested that increased election monitoring would be helpful.

Interview with Douglas Webber, Assistant Attorney General, Indiana

February 15, 2006

Background

Mr. Webber was an attorney for the Marion County Election Board and was also part of the Indianapolis Ballot Security Team (sometimes called the Goon Squad). This Team was a group of attorneys well trained in election law whose mission was to enforce ballot security.

Litigation

Status of litigation in Indiana: On January 12 the briefing was completed. The parties are waiting for a decision from the U.S. district judge. The judge understood that one of the parties would seek a stay from the 7th Circuit Court of Appeals. The parties anticipate a decision in late March or early April. Mr. Webber did the discovery and depositions for the litigation. Mr. Webber feared the plaintiffs were going to state in their reply brief that HAVA's statewide database requirement would resolve the problems alleged by the state. However, the plaintiffs failed to do so, relying on a Motor Voter Act argument instead. Mr. Webber believes that the voter ID at issue will make the system much more user-friendly for the poll workers. The Legislature passed the ID legislation, and the state is defending it, on the basis of the problem of the *perception* of fraud.

Incidents of fraud and intimidation

Mr. Webber thinks that no one can put his or her thumb on whether there has been voter fraud in Indiana. For instance, if someone votes in place of another, no one knows about it. There have been no prosecuted cases of polling place fraud in Indiana. There is no recorded history of documented cases, but it does happen. In the litigation, he used articles from around the country about instances of voter fraud, but even in those examples there were ultimately no prosecutions, for example the case of Milwaukee. He also stated in the litigation that there are all kinds of examples of dead people voting--totaling in the hundreds of thousands of votes across the country.

One interesting example of actual fraud in Indiana occurred when a poll worker, in a poll using punch cards, glued the chads back and then punched out other chads for his candidate. But this would not be something that would be addressed by an ID requirement.

He also believes that the perception that the polls are loose can be addressed by the legislature. The legislature does not need to wait to see if the statewide database solve the problems and therefore affect the determination of whether an ID requirement is necessary. When he took the deposition of the Republican Co-Director, he said he thought Indiana was getting ahead of the curve. That is, there have been problems around the country, and confidence in elections is low. Therefore Indiana is now in front of getting that confidence back.

Mr. Webber stated that the largest vote problem in Indiana is absentee ballots. Absentee ballot fraud and vote buying are the most documented cases. It used to be the law that applications for absentee ballots could be sent anywhere. In one case absentee votes were exchanged for “a job on election day”---meaning one vote for a certain price. The election was contested and the trial judge found that although there was vote fraud, the incidents of such were less than the margin of victory and so he refused to overturn the election. Mr. Webber appealed the case for the state and argued the judge used the wrong statute. The Indiana Supreme Court agreed and reversed. Several people were prosecuted as a result – those cases are still pending.

Process

In Indiana, voter complaints first come to the attorney for the county election board who can recommend that a hearing be held. If criminal activity was found, the case could be referred to the county prosecutor or in certain instances to the Indiana Attorney General’s Office. In practice, the Attorney General almost never handles such cases.

Mr. Webber has had experience training county of election boards in preserving the integrity and security of the polling place from political or party officials. Mr. Webber stated that the Indiana voter rolls need to be culled. He also stated that in Southern Indiana a large problem was vote buying while in Northern Indiana a large problem was based on government workers feeling compelled to vote for the party that gave them their jobs.

Recommendations

- Mr. Webber believes that all election fraud and intimidation complaints should be referred to the Attorney General’s Office to circumvent the problem of local political prosecutions. The Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes. At the local level, everyone knows each other, making it harder prosecute.
- Indiana currently votes 6 am to 6 pm on a weekday. Government workers and retirees are the only people who are available to work the polls. Mr. Webber suggested that the biggest change should be to move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.
- Early voting at the clerk’s office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk’s office. This should be expanded to other polling places in addition to that of the county clerk.
- Finally, Mr. Webber believes polling places should be open longer, run more professionally but that there needs to be fewer of them so that they are staffed by only the best, most professional people.

Interview with Justice Evelyn Stratton, Supreme Court of Ohio

February 17, 2006

The 2004 Election

Justice Stratton stated that usually in the period right before an election filings die down due to the Ohio expedited procedures for electoral challenges. However, the 2004 election was unusual because there were motions and cases decided up to the day of the election. Justice Stratton believed that most of the allegations were knee-jerk reactions without any substance. For example, without any factual claims, suit was brought alleging that all voter challengers posed a threat to voters. Thematically, allegations were either everyday voting problems or "conspiracies" depending on where the complaint came from. The major election cases in 2004 revolved around Secretary of State Blackwell.

Justice Stratton made a point that the Ohio Supreme Court bent over backwards in the 2004 election to be fair to both sides. There was never any discussion about a ruling helping one political party more than the other.

Justice Stratton cited two cases that summarize and refute the 2004 complaints---819 NE 2d 1125 (Ohio 2004) and 105 Ohio St. 3d 458 (2004).

General Election Fraud Issues

Justice Stratton has seen very few fraud cases in Ohio. Most challenges are for technical statutory reasons. She remembered one instance where a man who assisted handicapped voters marked the ballot differently than the voter wanted. Criminal charges were brought against this man and the question that the Ohio Supreme Court had to decide was whether ballots could be opened and inspected to see how votes were cast.

Justice Stratton claimed she knew of isolated incidences of fictitious voter registration but these were not prosecuted. She has not seen any evidence of ballots being stuffed, dead people voting, etc.

Suggestions for Changes in Voting Procedures

The Ohio Supreme Court is very strict about laches---if a person sits on their rights too long, they lose the right to file suit. The Ohio expedited procedures make election challenges run very smooth. Justice Stratton does not remember any suits brought on the day of the election. She supports a non-partisan head of state elections. Justice Stratton believes that last minute challenges should not be permitted and that lower courts need to follow the rules for the expedited procedures. Even given the anomalies with lower courts permitting late election challenges in 2004, the Ohio Supreme Court does not want to make a new rule unless this pattern repeats itself in 2008.

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Interview with Tony Sirvello, Executive Director, IACREOT

April 12, 2006

Biographical

Sirvello is currently the executive director of the International Association of Clerks, Recorders, Election Officials and Treasurers, an organization of 1700 members. Formerly, he ran elections in Harris County, Texas for 29 years.

Incidents of Election Fraud

Sirvello stated that one problem with election crimes is that they are not high on the priority list of either district attorneys or grand juries. Therefore, complaints of election crime very rarely are prosecuted or are indicted by the grand jury. In 1996 in Harris County, 14 people voted twice but the grand jury refused to indict. One woman voted twice, once during early voting and once on Election Day. She said she thought there were two elections. The jury believed her. Sirvello believes none of the people intentionally voted more than once. He said that he believes double voting is not as big of an issue as people make it out to be.

In 1986, it was found that there were 300 more ballots than voter signatures. It was clear that the elections officials stuffed the ballot boxes. The case was brought before a grand jury, but there was no indictment because all of the defendants were friends and relatives of each other and none would admit what had been done.

Sirvello stated that there have been isolated circumstances where a voter would show up at the poll and his name had already been signed and he had voted.

Finally, Sirvello indicated that some people who worked in Houston but did not live in Harris County were permitted to vote.

Specific Absentee Ballot/Vote By Mail Issues

Sirvello said that mail voting presents the largest problem. With mail voting there is too much opportunity to influence voters or to fraudulently request a ballot.

If one applied for an absentee ballot, their name and address was made available to candidates and political consultants who would often send people to collect the ballot. Many did not want to give up the ballot but wanted to mail it personally. The result was to discourage voting.

In Texas, a person could only apply for an absentee ballot if over 65 years of age. Parties, candidates and consultants would get the list of voters over 65 and send them a professional mail piece telling them they could vote by mail and a ballot with everything filled out except the signature. Problems ensued -- for example, voters would print their

names rather than sign them, and the ballot was rejected. In other cases, the elderly would give their absentee ballot to someone else.

If a person applied for an absentee ballot but then decided not to cast it but to vote in person, that person had to bring the non-voted absentee ballot to the poll and surrender it. If they did not they would not be permitted to vote at the polling place.

Incidents of Voter Intimidation

Sirvello only reported isolated cases of intimidation or suppression in Harris County. These mostly occurred in Presidential elections. Some people perceived intimidation when being told they were not eligible to vote under the law. Sirvello stated that the big issue in elections now is whether there should be a paper trail for touch screen voting.

Recommendations

District attorneys need to put more emphasis on election crime so people will not believe that it goes unpunished.

There should be either a national holiday for Election Day or a day should be given off of work without counting as a vacation day so that better poll workers are available and there can be more public education on election administration procedures.

Interview with Commissioner Harry Van Sickle and Deputy Chief Counsel to the Secretary of State Larry Boyle, State of Pennsylvania

March 1, 2006

As Commissioner Van Sickle has only been in office for about a year, Mr. Boyle answered most of our questions.

Fraud and Intimidation

Neither Van Sickle nor Boyle was aware of any fraud of any kind in the state of Pennsylvania over the last five years. They are not aware of the commission of any deceptive practices, such as flyers that intentionally misinform as to voting procedures. They also have never heard of any incidents of voter intimidation. With respect to the mayoral election of 2003, the local commission would know about that.

Since the Berks County case of 2003, where the Department of Justice found poll workers who treated Latino voters with hostility among other voting rights violations, the Secretary's office has brought together Eastern Pennsylvania election administrators and voting advocates to discuss the problems. As a result, other counties have voluntarily chosen to follow the guidance of the Berks County federal court order.

Regarding the allegations of fraud that surrounded the voter identification debate, Mr. Boyle said was not aware of any instances of fraud involving identity. He believes this is because Pennsylvania has laws in place to prevent this. For example, in 2002 the state legislature passed an ID law that is stricter than HAVA's – it requires all first time voters to present identification. In addition, the SURE System – the state's statewide voter registration database – is a great anti-fraud mechanism. The system will be in place statewide in the May 2006 election.

In addition, the state took many steps before the 2004 election to make sure it would be smooth. They had attorneys in the counties to consult on problems as well as staff at the central office to take calls regarding problems. In addition, in 2004 the state used provisional ballots for the first time. This resolved many of the problems that used to occur on Election Day.

Mr. Boyle is not aware of any voter registration fraud. This is because when someone registers to vote, the administrator does a duplicate check. In addition, under new laws a person registering to vote must provide their drivers license or Social Security number which are verified through the Department of Motor Vehicles and the Social Security Administration. Therefore, it would be unlikely that someone would be able to register to vote falsely.

Process

Most problems are dealt with at the local level and do not come within the review of the Secretary of State's office. For instance, if there is a complaint of intimidation, this is generally dealt with by the county courts which are specially designated solely to election cases on Election Day. The Secretary does not keep track of these cases. Since the passage of NVRA and HAVA counties will increasingly call the office when problems arise.

Recommendations

Mr. Boyle suggested we review the recommendations of the Pennsylvania Election Reform Task Force which is on the Secretary's website. Many of those recommendations have been introduced in the legislature.

Interview with Craig Donsanto, Director, Public Integrity Section, U.S. Department of Justice

January 13, 2006

Questions

How are Prosecution Decisions Made?

Craig Donsanto must approve all investigations that go beyond a preliminary stage, all charges, search warrant applications and subpoenas and all prosecutions. The decision to investigate is very sensitive because of the public officials involved. If a charge seems political, Donsanto will reject it. Donsanto gives possible theories for investigation. Donsanto and Noel Hillman will decide whether to farm out the case to an AUSA. Donsanto uses a concept called predication. In-other-words, there must be enough evidence to suggest a crime has been committed. The method of evaluation of this evidence depends on the type of evidence and its source. There are two types of evidence---factual (antisocial behavior) and legal (antisocial behavior leading to statutory violations). Whether an indictment will be brought depends on the likelihood of success before a jury. Much depends on the type of evidence and the source. Donsanto said he "knows it when he sees it." Donsanto will only indict if he is confident of a conviction assuming the worst case scenario – a jury trial.

A person under investigation will first receive a target letter. Often, a defendant who gets a target letter will ask for a departmental hearing. The defendant's case will be heard by Donsanto and Hillman. On occasion, the assistant attorney general will review the case. The department grants such hearings easily because such defendants are likely to provide information about others involved.

The Civil Rights Division, Voting Rights Section makes its own decisions on prosecution. The head of that division is John Tanner. There is a lot of cooperation between

Does the Decision to Prosecute Incorporate Particular Political Considerations within a State Such as a One Party System or a System in which the Party in Power Controls the Means of Prosecution and Suppresses Opposition Complaints?

Yes. Before, the department would leave it to the states. Now, if there is racial animus involved in the case, there is political bias involved, or the prosecutor is not impartial, the department will take it over.

Does it Matter if the Complaint Comes from a Member of a Racial Minority?

No. But if the question involves racial animus, that has also always been an aggravating factor, making it more likely the Department will take it over

What Kinds of Complaints Would Routinely Override Principles of Federalism?

Federalism is no longer big issue. DOJ is permitted to prosecute whenever there is a candidate for federal office.

Are There Too Few Prosecutions?

DOJ can't prosecute everything.

What Should Be Done to Improve the System?

The problem is asserting federal jurisdiction in non-federal elections. It is preferable for the federal government to pursue these cases for the following reasons: federal districts draw from a bigger and more diverse jury pool; the DOJ is politically detached; local district attorneys are hamstrung by the need to be re-elected; DOJ has more resources – local prosecutors need to focus on personal and property crimes---fraud cases are too big and too complex for them; DOJ can use the grand jury process as a discovery technique and to test the strength of the case.

In *U.S. v. McNally*, the court ruled that the mail fraud statute does not apply to election fraud. It was through the mail fraud statute that the department had routinely gotten federal jurisdiction over election fraud cases. 18 USC 1346, the congressional effort to “fix” *McNally*, did not include voter fraud.

As a result, the department needs a new federal law that allows federal prosecution whenever a federal instrumentality is used, e.g. the mail, federal funding, interstate commerce. The department has drafted such legislation, which was introduced but not passed in the early 1990s. A federal law is needed that permits prosecution in any election where any federal instrumentality is used.

Other Information

The Department has held four symposia for DEOs and FBI agents since the initiation of the Ballot Access and Voting Integrity Initiative. In 2003, civil rights leaders were invited to make speeches, but were not permitted to take part in the rest of the symposium. All other symposia have been closed to the public. (Peg will be sending us the complete training materials used at those sessions. These are confidential and are the subject of FOIA litigation).

There are two types of attorneys in the division: prosecutors, who take on cases when the jurisdiction of the section requires it; the US Attorney has recused him or herself; or when the US Attorney is unable to handle the case (most frequent reason) and braintrust attorneys who analyze the facts, formulate theories, and draft legal documents.

Cases:

Donsanto provided us with three case lists: Open cases (still being investigated) as of January 13, 2006 – confidential; election fraud prosecutions and convictions as a result of the Ballot Access and Voting Integrity Initiative October 2002-January 13, 2006 and cases closed for lack of evidence as of January 13, 2006

If we want more documents related to any case, we must get those documents from the states. The department will not release them to us.

Although the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate complaints of fraud, *the number of cases that the department is investigating and the number of indictments the department is pursuing are both up dramatically.*

Since 2002, the department has brought more cases against alien voters, felon voters, and double voters than ever before. Previously, cases were only brought when there was a pattern or scheme to corrupt the process. Charges were not brought against individuals – those cases went un-prosecuted. This change in direction, focus, and level of aggression was by the decision of the Attorney General. The reason for the change was for deterrence purposes.

The department is currently undertaking three pilot projects to determine what works in developing the cases and obtaining convictions and what works with juries in such matters to gain convictions:

Felon voters in Milwaukee.

Alien voters in the Southern District of Florida. FYI – under 18 USC 611, to prosecute for “alien voting” there is no intent requirement. Conviction can lead to deportation. Nonetheless, the department feels compelled to look at mitigating factors such as was the alien told it was OK to vote, does the alien have a spouse that is a citizen.

Double voters in a variety of jurisdictions.

The department does not maintain records of the complaints that come in from DEOs, U.S attorneys and others during the election that are not pursued by the department. Donsanto asserted that U.S. attorneys never initiate frivolous investigations.

According to the new handbook, the department can take on a case whenever there is a federal candidate on the ballot

Interview with Douglas Webber, Assistant Indiana Attorney General

February 15, 2006

Background

Mr. Webber was an attorney for the Marion County Election Board and was also part of the Indianapolis Ballot Security Team (sometimes called the Goon Squad). This Team was a group of attorneys well trained in election law whose mission was to enforce ballot security.

Litigation

Status of litigation in Indiana: On January 12 the briefing was completed. The parties are waiting for a decision from the U.S. district judge. The judge understood that one of the parties would seek a stay from the 7th Circuit Court of Appeals. The parties anticipate a decision in late March or early April. Mr. Webber did the discovery and depositions for the litigation. Mr. Webber feared the plaintiffs were going to state in their reply brief that HAVA's statewide database requirement would resolve the problems alleged by the state. However, the plaintiffs failed to do so, relying on a Motor Voter Act argument instead. Mr. Webber believes that the voter ID at issue will make the system much more user-friendly for the poll workers. The Legislature passed the ID legislation, and the state is defending it, on the basis of the problem of the *perception* of fraud.

Incidents of fraud and intimidation

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One interesting example of actual fraud in Indiana occurred when a poll worker, in a poll using punch cards, glued the chads back and then punched out other chads for his candidate. But this would not be something that would be addressed by an ID requirement.

He also believes that the perception that the polls are loose can be addressed by the legislature. The legislature does not need to wait to see if the statewide database solve the problems and therefore affect the determination of whether an ID requirement is necessary. When he took the deposition of the Republican Co-Director, he said he thought Indiana was getting ahead of the curve. That is, there have been problems around the country, and confidence in elections is low. Therefore Indiana is now in front of getting that confidence back.

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Process

In Indiana, voter complaints first come to the attorney for the county election board who can recommend that a hearing be held. If criminal activity was found, the case could be referred to the county prosecutor or in certain instances to the Indiana Attorney General’s Office. In practice, the Attorney General almost never handles such cases.

Mr. Webber has had experience training county of election boards in preserving the integrity and security of the polling place from political or party officials. Mr. Webber stated that the Indiana voter rolls need to be culled. He also stated that in Southern Indiana a large problem was vote buying while in Northern Indiana a large problem was based on government workers feeling compelled to vote for the party that gave them their jobs.

Recommendations

- Mr. Webber believes that all election fraud and intimidation complaints should be referred to the Attorney General’s Office to circumvent the problem of local political prosecutions. The Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes. At the local level, everyone knows each other, making it harder prosecute.
- Indiana currently votes 6 am to 6 pm on a weekday. Government workers and retirees are the only people who are available to work the polls. Mr. Webber suggested that the biggest change should be to move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.
- Early voting at the clerk’s office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk’s office. This should be expanded to other polling places in addition to that of the county clerk.
- Finally, Mr. Webber believes polling places should be open longer, run more professionally but that there needs to be fewer of them so that they are staffed by only the best, most professional people.

**Interview Sharon Priest, former Secretary of State, Arkansas
January 24, 2006**

Process:

When there is an allegation of election fraud or intimidation, the county clerk refers it to the local district attorney. Most often, the DA does not pursue the claim. There is little that state administrators can do about this because in Arkansas, county clerks are partisanly elected and completely autonomous. Indeed, county clerks have total authority to determine who is an eligible voter.

Data:

There is very little data collected in Arkansas on fraud and intimidation cases. Any information there might be stays at the county level. This again is largely because the clerks have so much control and authority, and will not release information. Any statewide data that does exist might be gotten from Susie Storms from the State Board of Elections.

Most Common Problems

The perception of fraud is much greater than the actual incidence of fraud.

- The DMV does not implement NVRA in that it does not take the necessary steps when providing the voter registration forms and does not process them properly. This leads to both ineligible voters potentially getting on the voting rolls (e.g. noncitizens, who have come to get a drivers license, fill out a voter registration form having no intention of actually voting) and voter thinking they are registered to vote to find they are not on the list on Election Day. Also, some people think they are automatically registered if they have applied for a drivers license.
- Absentee ballot fraud is the most frequent form of election fraud.
- In Arkansas, it is suspected that politicians pay ministers to tell their congregations to vote for them
- In 2003, the State Board documented 400 complaints against the Pulaski County Clerk for engaging in what was at least borderline fraud, e.g. certain people not receiving their absentee ballots. The case went to a grand jury but no indictment was brought.
- Transportation of ballot boxes is often insecure making it very easy for insiders to tamper with the ballots or stuff the ballot boxes. Priest has not actually witnessed this happen, but believes it may have.
- Intimidation at the poll sites in court houses. Many voters are afraid of the county judges or county employees and therefore will not vote. They justifiably believe

their ballots will be opened by these employees to see who they voted for, and if they voted against the county people, retribution might ensue.

- Undue challenges to minority language voters at the poll sites
- Paid registration collectors fill out phony names, but these individuals are caught before anyone is able to cast an ineligible ballot.

Suggested Reforms for Improvement:

- Nonpartisan election administration
- Increased prosecution of election crimes through greater resources to district attorneys. In addition, during election time, there should be an attorney in the DA's office who is designated to handle election prosecution.
- There should be greater centralization of the process, especially with respect to the statewide database. Arkansas has a "bottom up" system. This means the counties still control the list and there is insufficient information sharing. For example, if someone lives in one county but dies in another, the county in which the voter lived – and was registered to vote – will not be notified of the death.

Interview with Heather Dawn Thompson, Director of Government Relations, National Congress of American Indians

March 22, 2006

Background

Thompson is a member of the Cheyenne River Sioux tribe in South Dakota. For many years she worked locally on elections doing poll monitoring and legal work, from a nonpartisan perspective. In 2004, she headed the Native Vote Election Protection, a project run by the National Congress of American Indians, and was in charge of monitoring all Native American voting sites around the country, focusing on 10 or 15 states with the biggest Native populations. She is now permanently on staff of the National Congress of American Indians as the Director of Government relations. NCAI works jointly with NARF as well as the Election Protection Coalition.

Recent trends

Native election protection operations have intensified recently for several reasons. While election protection efforts in Native areas have been ongoing, leaders realized that they were failing to develop internal infrastructure or cultivate locally any of the knowledge and expertise which would arrive and leave with external protection groups.

Moreover, in recent years partisan groups have become more aware of the power of the native vote, and have become more active in native communities. This has partly resulted in an extreme increase in voter intimidation tactics. As native communities are easy to identify, easy to target, and generally dominated by a single party, they are especially vulnerable to such tactics.

Initially, reports of intimidation were only passed along by word of mouth. But it became such a problem in the past 5 to 6 years that tribal leaders decided to raise the issue to the national level. Thompson points to the Cantwell election in 2000 and the Johnson election in South Dakota in 2002 as tipping points where many began to realize the Indian vote could matter in Senate and national elections.

Thompson stressed that Native Vote places a great deal of importance on being nonpartisan. While a majority of native communities vote Democratic, there are notable exceptions, including communities in Oklahoma and Alaska, and they have both parties engaging in aggressive tactics. However, she believes the most recent increase in suppression and intimidation tactics have come from Republican Party organizations.

Nature of Suppression/Intimidation of Native Voters

Thompson categorizes suppression into judge related and poll-watcher related incidents, both of which may be purposeful or inadvertent, as well as longstanding legal-structural constraints.

Structural problems

One example of inadvertent suppression built into the system stems from the fact that many Indian communities also include significant numbers of non-Indians due to allotment. Non-Indians tend to be most active in the state and local government while Indians tend to be more involved in the tribal government. Thus, the individuals running elections end up being non-Indian. Having Indians vote at polling places staffed by non-Indians often results in incidents of disrespect towards Native voters (Thompson emphasized the considerable racism which persists against Indians in these areas). Also, judges aren't familiar with Indian last names and are more dismissive of solving discrepancies with native voters.

Structural problems also arise from laws which mandate that the tribal government cannot run state or local elections. In places like South Dakota, political leaders used to make it intentionally difficult for Native Americans to participate in elections. For example, state, local and federal elections could not be held in the same location as tribal elections, leading to confusion when tribal and other elections are held in different locations. Also, it is common to have native communities with few suitable sites, meaning that a state election held in a secondary location can suddenly impose transportation obstacles.

Photo ID Issues

Thompson believes both state level and HAVA photo ID requirements have a considerable negative impact. For a number of reasons, many Indian voters don't have photo ID. Poor health care and poverty on reservations means that many children are born at home, leading to a lack of birth certificates necessary to obtain ID. Also, election workers and others may assume they are Hispanic, causing additional skepticism due to citizenship questions. There is a cultural issue as well—historically, whenever Indians register with the federal government it has been associated with a taking of land or removal of children. Thus many Indians avoid registering for anything with the government, even for tribal ID.

Thompson also offered examples of how the impact of ID requirements had been worsened by certain rules and the discriminatory way they have been carried out. In the South Dakota special election of 2003, poll workers told Native American voters that if they did not have ID with them and they lived within sixty miles of the precinct, the voter had to come back with ID. The poll workers did not tell the voters that they could vote by affidavit ballot and not need to return, as required by law. This was exacerbated by the fact that the poll workers didn't know the voters—as would be the case with non-Indian poll workers and Indian voters. Many left the poll site without voting and did not return.

In Minnesota, the state tried to prohibit the use of tribal ID's for voting outside of a reservation, even though Minnesota has a large urban Native population. Thompson believes this move was very purposeful, and despite any reasonable arguments from the Secretary of State, they had to file a lawsuit to stop the rule. They were very surprised to find national party representatives in the courtroom when they went to deal with lawsuit, representatives who could only have been alerted through a discussion with the Secretary of State.

Partisan Poll-Monitoring

Thompson believes the most purposeful suppression has been perpetrated by the party structures on an individual basis, of which South Dakota is a great example.

Some negative instances of poll monitoring are not purposeful. Both parties send in non-Indian, non-Western lawyers, largely from the East Coast, which can lead to uncomfortable cultural clashes. These efforts display a keen lack of understanding of these communities and the best way to negotiate within in them. But while it may be intimidating, it is not purposeful.

Yet there are also many instances of purposeful abuse of poll monitoring. While there were indeed problems during the 2002 Johnson election, it was small compared to the Janklow special election. Thompson says Republican workers shunned cultural understanding outreach, and had an extensive pamphlet of what to say at polls and were very aggressive about it. In one tactic, every time a voter would come up with no ID, poll monitors would repeat "You can't vote" over and over again, causing many voters to leave. This same tactic appeared across reservations, and eventually they looked to the Secretary of State to intervene.

In another example, the head of poll watchers drove from poll to poll and told voters without IDs to go home, to the point where the chief of police was going to evict him from the reservation. In Minnesota, on the Red Lake reservation, police actually did evict an aggressive poll watcher—the fact that the same strategies are employed several hundred miles apart points to standardized instructions.

None of these incidents ever went to court. Thompson argues this is due to few avenues for legal recourse. In addition, it is inherently difficult to settle these things, as they are he said-she said incidents and take place amidst the confusion of Election Day. Furthermore, poll watchers know what the outline of the law is, and they are careful to work within those parameters, leaving little room for legal action.

Other seeming instances of intimidation may be purely inadvertent, such as when, in 2002, the U.S. Attorney chose Election Day to give out subpoenas, and native voters stayed in their homes. In all fairness, she believes this was a misunderstanding.

The effect of intimidation on small communities is especially strong and is impossible to ultimately measure, as the ripple effect of rumors in insular communities can't be traced. In some communities, they try to combat this by using the Native radio to encourage people to vote and dispel myths.

She has suggestions for people who can describe incidents at a greater level of detail if interested.

Vote Buying and Fraud

They haven't found a great deal of evidence on vote-buying and fraud. When cash is offered to register voters, individuals may abuse this, although Thompson believes this is not necessarily

unique to the Native community, but a reflection of high rates of poverty. This doesn't amount to a concerted effort at conspiracy, but instead represents isolated incidents of people not observing the rules. While Thompson believes looking into such incidents is a completely fair inquiry, she also believes it has been exploited for political purposes and to intimidate. For example, large law enforcement contingents were sent to investigate these incidents. As Native voters tend not to draw distinctions between law enforcement and other officials, this made them unlikely to help with elections.

Remedies

As far as voter suppression is concerned, Native Vote has been asking the Department of Justice to look into what might be done, and to place more emphasis on law enforcement and combating intimidation. They have been urging the Department to focus on this at least much as it is focusing on enforcement of Section 203. Native groups have complained to DOJ repeatedly and DOJ has the entire log of handwritten incident reports they have collected. Therefore, Thompson recommends more DOJ enforcement of voting rights laws with respect to intimidation. People who would seek to abuse the process need to believe a penalty will be paid for doing so. Right now, there is no recourse and DOJ does not care, so both parties do it because they can.

Certain states should rescind bars on nonpartisan poll watchers on Election Day; Thompson believes this is contrary to the nonpartisan, pro-Indian presence which would best facilitate voting in Native communities.

As discussed above, Thompson believes ID requirements are a huge impediment to native voters. At a minimum, Thompson believes all states should be explicit about accepting tribal ID on Election Day.

Liberalized absentee ballot rules would also be helpful to Native communities. As many Indian voters are disabled and elderly, live far away from their precinct, and don't have transportation, tribes encourage members to vote by absentee ballot. Yet obstacles remain. Some voters are denied a chance to vote if they have requested a ballot and then show up at the polls. Thompson believes South Dakota's practice of tossing absentee ballots if a voter shows up at the ED would serve as an effective built-in protection. In addition, she believes there should be greater scrutiny of GOTV groups requesting absentee ballots without permission. Precinct location is a longstanding issue, but Thompson recognizes that states have limited resources. In the absence of those resources, better absentee ballot procedures are needed.

Basic voter registration issues and access are also important in native communities and need to be addressed.

Thompson is mixed on what restrictions should be placed on poll watcher behavior, as she believes open elections and third party helpers are both important. However, she would be willing to explore some sort of stronger recourse and set of rules concerning poll watchers' behavior. Currently, the parties are aware that no recourse exists, and try to get away with what they will. This is not unique to a single party—both try to stay within law while shaking people up. The existing VRA provision is 'fluffy'—unless you have a consent decree, you have very

little power. Thompson thinks a general voter intimidation law that is left a bit broad but that nonetheless makes people aware of some sort of kickback could be helpful.

Interview with Jason Torchinsky, former attorney with the Civil Rights Section of the Department of Justice, assistant general counsel for the American Center for Voting Rights (ACVR) and Robin DeJarnette, political consultant for C4 and C5 organizations and executive director for the ACVR.

February 16, 2006

ACVR Generally

Other officers of the ACVR-Thor Hearne II-general counsel and Brian Lunde, former executive director of the Democratic National Committee.

Board of Directors of ACVR-Brian Lunde, Thor Hearne II, and Cameron Quinn

ACVR works with a network of attorneys around the country and has been recently involved with lobbying in PA and MO.

Regarding the August 2005 Report

ACVR has not followed up on any of the cases it cited in the 2005 report to see if the allegations had been resolved in some manner. Mr. Torchinsky stated that there are problems with allegations of fraud in the report and prosecution---just because there was no prosecution, does not mean there was no vote fraud. He believes that it is very hard to come up with a measure of voter fraud short of prosecution. Mr. Torchinsky does not have a good answer to resolve this problem.

P. 35 of the Report indicates that there were coordinated efforts by groups to coordinate fraudulent voter registrations. P. 12 of the Ohio Report references a RICO suit filed against organizations regarding fraudulent voter registrations. Mr. Torchinsky does not know what happened in that case. He stated that there was a drive to increase voter registration numbers regardless of whether there was an actual person to register. He stated that when you have an organization like ACORN involved all over the place, there is reason to believe it is national in scope. When it is the same groups in multiple states, this leads to the belief that it is a concerted effort.

Voting Problems

Mr. Torchinsky stated there were incidents of double voting---ex. a double voter in Kansas City, MO. If the statewide voter registration database requirement of HAVA is properly implemented, he believes it will stop multiple voting in the same state. He supports the HAVA requirement, if implemented correctly. Since Washington State implemented its statewide database, the Secretary of State has initiated investigations into felons who voted. In Philadelphia the major problem is permitting polling places in private homes and bars – even the homes of party chairs.

Mr. Torchinsky believes that voter ID would help, especially in cities in places like Ohio and Philadelphia, PA. The ACVR legislative fund supports the Real ID requirements suggested by the Carter-Baker Commission. Since federal real ID requirements will be in place in 2010, any objection to a voter ID requirement should be moot.

Mr. Torchinsky stated that there are two major poll and absentee voting problems---(1) fraudulent votes-ex. dead people voting in St. Louis and (2) people voting who are not legally eligible-ex. felons in most places. He also believes that problems could arise in places that still transport paper ballots from the voting location to a counting room. However, he does not believe this is as widespread a problem now as it once was.

Suggestions

Implement the Carter-Baker Commission recommendations because they represent a reasonable compromise between the political parties.

**Interview with Joe Rich, former Chief of the Voting Section,
US Department of Justice
February 7, 2006**

Background

Mr. Rich went to Yale undergraduate and received his law degree from the University of Michigan. He served as Chief of the Voting Section from 1999-2005. Prior to that he served in other leadership roles in the Civil Rights Division and litigated several civil rights cases.

Data Collection and Monitoring

The section developed a new database before the 2004 election to log complaint calls and what was done to follow up on them. They opened many investigations as a result of these complaints, including one on the long lines in Ohio (see DOJ letter on website, as well as critical commentary on the DOJ letter's analysis). DOJ found no Section 2 violation in Ohio. John Tanner should be able to give us this data. However, the database does not include complaints that were received by monitors and observers in the field.

All attorney observers in the field are required to submit reports after Election Day to the Department. These reports would give us a very good sense of the scope and type of problems that arose on that day and whether they were resolved on the spot or required further action.

The monitoring in 2004 was the biggest operation ever. Prior to 2000, only certain jurisdictions could be observed – a VRA covered jurisdiction that was certified or a jurisdiction that had been certified by a court, e.g. through a consent decree. Since that time, and especially in 2004, the Department has engaged in more informal “monitoring.” In those cases, monitors assigned to certain jurisdictions, as opposed to observers, can only watch in the polling place with permission from the jurisdiction. The Department picked locations based on whether they had been monitored in the past, there had been problems before, or there had been allegations in the past. Many problems that arose were resolved by monitors on the spot.

Processes for Cases not Resolved at the Polling Site

If the monitor or observer believes that a criminal act has taken place, he refers it to the Public Integrity Section (PIN). If it is an instance of racial intimidation, it is referred to the Civil Rights Criminal Division. However, very few such cases are prosecuted because they are very hard to prove. The statutes covering such crimes require actual violence or the threat of violence in order to make a case. As a result, most matters are referred to PIN because they operate under statutes that make these cases easier to prove. In general, there are not a high number of prosecutions for intimidation and suppression.

If the act is not criminal, it may be brought as a civil matter, but only if it violated the Voting Rights Act – in other words, only if there is a racial aspect to the case. Otherwise the only recourse is to refer it to PIN.

However, PIN tends not to focus on intimidation and suppression cases, but rather cases such as alleged noncitizen voting, etc. Public Integrity used to only go after systematic efforts to corrupt the system. Now they focus on scattered individuals, which is a questionable resource choice. Criminal prosecutors over the past 5 years have been given more resources and more leeway because of a shift in focus and policy toward noncitizens and double voting, etc.

There have been very few cases brought involving African American voters. There have been 7 Section 2 cases brought since 2001 – only one was brought on behalf of African American voters. That case was initiated under the Clinton administration. The others have included Latinos and discrimination against whites.

Types of Fraud and Intimidation Occurring

There is no evidence that polling place fraud is a problem. There is also no evidence that the NVRA has increased the opportunity for fraud. Moreover, regardless of NVRA's provisions, an election official can always look into a voter's registration if he or she believes that person should no longer be on the list. The Department is now suing Missouri because of its poor registration list.

The biggest problem is with absentee ballots. The photo ID movement is a vote suppression strategy. This type of suppression is a bigger problem than intimidation. There has been an increase in vote suppression over the last five years, but it has been indirect, often in the way that laws are interpreted and implemented. Unequal implementation of ID requirements at the polls based on race would be a VRA violation.

The most common type of intimidation occurring is open hostility by poll workers toward minorities. It is a judgment call whether this is a crime or not – Craig Donsanto of PIN decides if it rises to a criminal matter.

Election Day challenges at the polls could be a VRA violation but such a case has never been formally pursued. Such cases are often resolved on the spot. Development of a pre-election challenge list targeted at minorities would be a VRA violation but this also has never been pursued. These are choices of current enforcement policy.

Long lines due to unequal distribution of voting machines based on race, list purges based on race and refusal to offer a provisional ballot on the basis of race would also be VRA violations.

Recommendations

Congress should pass a new law that allows the Department to bring civil actions for suppression that is NOT race based, for example, deceptive practices or wholesale challenges to voters in jurisdictions that tend to vote heavily for one party.

Given the additional resources and latitude given to the enforcement of acts such as double voting and noncitizen voting, there should be an equal commitment to enforcement of acts of intimidation and suppression cases.

There should also be increased resources dedicated to expanded monitoring efforts. This might be the best use of resources since monitors and observers act as a deterrent to fraud and intimidation.

Interview with Joe Sandler, Counsel to the DNC

February 24, 2006

Background

Sandler is an election attorney. He worked for the DNC in 1986, was in-house counsel from 1993-1998, and currently is outside counsel to the DNC and most state Democratic Parties. Sandler was part of the recount team in Florida in both 2002 and 2004. He recruited and trained attorneys in voting issues---starting in 2002 Sandler recruited in excess of 15, 000 attorneys in twenty-two states. He is now putting together a national lawyers council in each state.

2004-Administrative Incompetence v. Fraud

Sandler believes the 2004 election was a combination of administrative incompetence and fraud. Sandler stated there was a deliberate effort by the Republicans to disenfranchise voters across the country. This was accomplished by mailing out cards to registered voters and then moving to purge from the voters list those whose cards were returned. Sandler indicated that in New Mexico there was a deliberate attempt by Republicans to purge people registered by third parties. He stated that there were intentional efforts to disenfranchise voters by election officials like Ken Blackwell in Ohio.

The problems with machine distribution in 2004 were not deliberate. However, Sandler believes that a large problem exists in the states because there are no laws that spell out a formula to allocate so many voting machines per voter.

Sandler was asked how often names were intentionally purged from the voter lists. He responded that there will be a lot of names purged as a result of the creation of the voter lists under HAVA. However, Sandler stated most wrongful purging results from incompetence. Sandler also said there was not much intimidation at the polls because most such efforts are deterred and that the last systematic effort was in Philadelphia in 2003 where Republicans had official looking cars and people with badges and uniforms, etc.

Sandler stated that deliberate dissemination of misinformation was more incidental, with individuals misinforming and not a political party. Disinformation did occur in small Spanish speaking communities.

Republicans point to instances of voter registration fraud but Sandler believes it did not occur, except for once in a blue moon. Sandler did not believe non-citizen voting was a problem. He also does not believe that there is voter impersonation at the polls and that Republicans allege this as a way of disenfranchising voters through restrictive voter identification rules.

Fraud and Intimidation Trends

Sandler stated that over the years there has been a shift from organized efforts to intimidate minority voters through voter identification requirements, improper purging, failure to properly register voters, not allocating enough voting machines, failure to properly use the provisional ballot, etc., by voter officials as well as systematic efforts by Republicans to deregister voters.

At the federal level, Sandler said, the voting division has become so politicized that it is basically useless now on intimidation claims. At the local level, Sandler does not believe politics prevents or hinders prosecution for vote fraud.

Sandler's Recommendations

Moving the voter lists to the state level is a good idea where carefully done

Provisional ballots rules should follow the law and not be over-used

No voter ID

Partisanship should be taken out of election administration, perhaps by giving that responsibility by someone other than the Secretary of State. There should at least be conflict of interest rules

Enact laws that allow private citizens to bring suit under state law

All suggestions from the DNC Ohio Report:

1. The Democratic Party must continue its efforts to monitor election law reform in all fifty states, the District of Columbia and territories.
2. States should be encouraged to codify into law all required election practices, including requirements for the adequate training of official poll workers.
3. States should adopt uniform and clear published standards for the distribution of voting equipment and the assignment of official pollworkers among precincts, to ensure adequate and nondiscriminatory access. These standards should be based on set ratios of numbers of machines and pollworkers per number of voters expected to turn out, and should be made available for public comment before being adopting.
4. States should adopt legislation to make clear and uniform the rules on voter registration.
5. The Democratic Party should monitor the processing of voter registrations by local election authorities on an ongoing basis to ensure the timely processing of registrations and changes, including both newly registered voters and voters who move within a jurisdiction or the state, and the Party should ask state Attorneys General to take action where necessary to force the timely updating of voter lists.
6. States should be urged to implement statewide voter lists in accordance with the Help America Vote Act ("HAVA"), the election reform law enacted by Congress in 2002 following the Florida debacle.
7. State and local jurisdictions should adopt clear and uniform rules on the use of, and the counting of, provisional ballots, and distribute them for public comment well in advance of each election day.

8. The Democratic Party should monitor the purging and updating of registered voter lists by local officials, and the Party should challenge, and ask state Attorneys General to challenge, unlawful purges and other improper list maintenance practices.
9. States should not adopt requirements that voters show identification at the polls, beyond those already required by federal law (requiring that identification be shown only by first time voters who did not show identification when registering.)
10. State Attorneys General and local authorities should vigorously enforce, to the full extent permitted by state law, a voter's right to vote without showing identification.
11. Jurisdictions should be encouraged to use precinct-tabulated optical scan systems with a computer assisted device at each precinct, in preference to touchscreen ("direct recording equipment" or "DRE") machines.
12. Touchscreen (DRE) machines should not be used until a reliable voter verifiable audit feature can be uniformly incorporated into these systems. In the event of a recount, the paper or other auditable record should be considered the official record.
13. Remaining punchcard systems should be discontinued.
14. States should ask state Attorneys General to challenge unfair or discriminatory distribution of equipment and resources where necessary, and the Democratic Party should bring litigation as necessary.
15. Voting equipment vendors should be required to disclose their source code so that it can be examined by third parties. No voting machine should have wireless connections or be able to connect to the Internet.
16. Any equipment used by voters to vote or by officials to tabulate the votes should be used exclusively for that purpose. That is particularly important for tabulating/aggregating computers.
17. States should adopt "no excuse required" standards for absentee voting.

18. States should make it easier for college students to vote in the jurisdiction in which their school is located.
19. States should develop procedures to ensure that voting is facilitated, without compromising security or privacy, for all eligible voters living overseas.
20. States should make voter suppression a criminal offense at the state level, in all states.
21. States should improve the training of pollworkers.
22. States should expend significantly more resources in educating voters on where, when and how to vote.
23. Partisan officials who volunteer to work for a candidate should not oversee or administer any elections.

**Interview with John Ravitz, Executive Director, New York City Board of Elections
February 16, 2006**

Process

If there is an allegation of fraud or intimidation, the commissioners can rule to act on it. For example, in 2004 there were allegations in Queens that people had registered to vote using the addresses of warehouses and stores. The Board sent out teams of investigators to look into this. The Board then developed a challenge list that was to be used at the polls if any of the suspect voters showed up to vote.

If the allegation rises to a criminal level, the Board will refer it to the county district attorney. If a poll worker or election official is involved, the Board may conduct an internal investigation. That individual would be interviewed, and if there is validity to the claim, the Board would take action.

Incidences of Fraud and Intimidation

Mr. Ravitz says there have been no complaints about voter intimidation since he has been at the Board. There have been instances of over-aggressive poll workers, but nothing threatening. Voter fraud has also generally not been a problem.

In 2004, the problem was monitors from the Department of Justice intimidating voters. They were not properly trained, and were doing things like going into the booth with voters. The Board had to contact their Department supervisors to put a stop to it.

Charges regarding "ballot security teams" have generally just been political posturing.

The problem of people entering false information on voter registration forms is a problem. However, sometimes a name people allege is false actually turns out to be the voter's real name. Moreover, these types of acts do not involve anyone actually casting a fraudulent ballot.

With respect to the issue of voters being registered in both New York and Florida, the Board now compares its list with that of Florida and other places to address the problem. This will be less of an issue with the use of statewide voter registration databases, as information becomes easier to share. Despite the number of people who were on the voter registration lists of both jurisdictions, there was no one from those lists who voted twice.

Most of the problems at the polls have to do with poll workers not doing what they are supposed to do, not any sort of malfeasance. This indicates that improved training is the most important measure we can take.

There have been instances in which poll workers ask voters for identification when they shouldn't. However, the poll workers seem to do it when they cannot understand the name when the voter tells it to them. The Board has tried to train them that no matter what, the poll worker cannot ask for identification in order to get the person's name.

Absentee ballot fraud has also not been a problem in New York City. This is likely because absentee ballots are counted last – eight days after election day. This is so that they can be checked thoroughly and verified. This is a practice other jurisdictions might consider.

New York City has not had a problem with ex-felons voting or with ex-felons not knowing their voting rights. The City has not had any problems in recent years with deceptive practices, such as flyers providing misinformation about voting procedures.

Recommendations

- Better poll worker training
- Thorough inspection of absentee ballots subsequent to the election

Interview with John Tanner, Director, Civil Rights Division, U.S. Department of Justice

February 24, 2006

Note: Mr. Tanner's reluctance to share data, information and his perspective on solving the problems presented an obstacle to conducting the type of interview that would help inform this project as much as we would have hoped. Mr. Tanner would not give us any information about or data from the section's election complaint in-take phone logs; data or even general information from the Interactive Case Management (ICM) system-its formal process for tracking and managing work activities in pursuing complaints and potential violations of the voting laws; and would give us only a selected few samples of attorney-observer reports, reports that every Voting Section attorney who is observing elections at poll sites on Election Day is required to submit. He would not discuss in any manner any current investigations or cases the section is involved in. He also did not believe it was his position to offer us recommendations as to how his office, elections, or the voting process might be improved.

Authority and Process

The Voting Section, in contrast to the Public Integrity section as Craig Donsanto described it, typically looks only at systemic problems, not problems caused by individuals. Indeed, the section never goes after individuals because it does not have the statutory authority to do so. In situations in which individuals are causing problems at the polls and interfering with voting rights, the section calls the local election officials to resolve it.

Federal voting laws only apply to state action, so the section only sues local governments – it does not have any enforcement power over individuals. Most often, the section enters into consent agreements with governments that focus on poll worker training, takes steps to restructure how polls are run, and deals with problems on Election Day on the spot. Doing it this way has been most effective – for example, while the section used to have the most observers in the South, systematic changes forced upon those jurisdictions have made it so now the section does not get complaints from the South.

The section can get involved even where there is no federal candidate on the ballot if there is a racial issue under the 14th and 15th Amendments.

When the section receives a complaint, attorneys first determine whether it is a matter of individuals or systemic. When deciding what to do with the complaint, the section errs on the side of referring it criminally because they do not want civil litigation to complicate a possible criminal case.

When a complaint comes in, the attorneys ask questions to see if there are even problems there that the complainant is not aware are violations of the law. For example, in the Boston case, the attorney did not just look at Spanish language cases under section 203, but also brought a Section 2 case for violations regarding Chinese and Vietnamese voters.

When looking into a case, the attorneys look for specificity, witnesses and supporting evidence.

Often, lawsuits bring voluntary compliance.

Voter Intimidation

Many instances of what some people refer to as voter intimidation are more unclear now. For example, photographing voters at the polls has been called intimidating, but now everyone is at the polls with a camera. It is hard to know when something is intimidation and it is difficult to show that it was an act of intimidation.

The fact that both parties are engaging in these tactics now makes it more complicated. It makes it difficult to point the finger at any one side.

The inappropriate use of challengers on the basis of race would be a violation of the law. Mr. Tanner was unaware that such allegations were made in Ohio in 2004. He said there had never been an investigation into the abusive use of challengers.

Mr. Tanner said a lot of the challenges are legitimate because you have a lot of voter registration fraud as a result of groups paying people to register voters by the form. They turn in bogus registration forms. Then the parties examine the registration forms and challenge them because 200 of them, for example, have addresses of a vacant lot.

However, Mr. Tanner said the Department was able to informally intervene in challenger situations in Florida, Atkinson County, Georgia and in Alabama, as was referenced in a February 23 Op-Ed in USA Today. Mr. Tanner reiterated the section takes racial targeting very seriously.

Refusal to provide provisional ballots would be a violation of the law that the section would investigate.

Deceptive practices are committed by individuals and would be a matter for the Public Integrity Section. Local government would have to be involved for the voting section to become involved.

Unequal implementation of ID rules, or asking minority voters only for ID would be something the section would go after. Mr. Tanner was unaware of allegations of this in 2004. He said this is usually a problem where you have language minorities and the poll workers cannot understand the voters when they say their names. The section has never formally investigated or solely focused a case based on abuse of ID provisions. However, implementation of ID rules was part of the Section 2 case in San Diego. Mr. Tanner reiterated that the section is doing more than ever before.

When asked about the section's references to incidents of vote fraud in the documents related to the new state photo identification requirements, Mr. Tanner said the section only looks at retrogression, not at the wisdom of what a legislature does. In Georgia, for

example, everyone statistically has identification, and more blacks have ID than whites. With respect to the letter to Senator Kit Bond regarding voter ID, the section did refer to the perception of concern about dead voters because of reporting by the Atlanta Journal-Constitution. It is understandable that when you have thousands of bogus registrations that there would be concerns about polling place fraud. Very close elections make this even more of an understandable concern. Putting control of registration lists in the hands of the states will be helpful because at this higher level of government you find a higher level of professionalism.

It is hard to know how much vote suppression and intimidation is taking place because it depends on one's definition of the terms – they are used very loosely by some people. However, the enforcement of federal law over the years has made an astounding difference so that the level of discrimination has plummeted. Registration of minorities has soared, as can be seen on the section's website. Mr. Tanner was unsure if the same was true with respect to turnout, but the gap is less. That information is not on the section's website.

The section is not filing as many Section 2 cases as compared to Section 203 cases because many of the jurisdictions sued under Section 2 in the past do not have issues anymore. Mr. Tanner said that race based problems are rare now.

NVRA has been effective in opening up the registration process. In terms of enforcement, Mr. Tanner said they do what they can when they have credible allegations. There is a big gap between complaints and what can be substantiated. Mr. Tanner stated that given the high quality of the attorneys now in the section, if they do not investigate it or bring action, that act complained of did not happen.

Recommendations

Mr. Tanner did not feel it was appropriate to make recommendations.

Interview with Kevin Kennedy, State Elections Director, State of Wisconsin

April 11, 2006

Background

Kennedy is a nonpartisan, appointed official. He has been in this position since 1983.

Complaints of fraud and intimidation do not usually come to Kennedy's office. Kennedy says that complainants usually take their allegations to the media first because they are trying to make a political point.

2004 Election Incidents of Fraud

The investigations into the 2004 election uncovered some cases of double voting and voting by felons who did not know they were not eligible to vote, but found no concerted effort to commit fraud. There have been a couple of guilty pleas as a result, although not a number in the double digits. The task force and news reports initially referred to 100 cases of double voting and 200 cases of felon voting, but there were not nearly that many prosecutions. Further investigation since the task force investigation uncovered that in some instances there were mis-marks by poll workers, fathers and sons mistaken for the same voter, and even a husband and wife marked as the same voter. The double votes that are believed to have occurred were a mixture of absentee and polling place votes. It is unclear how many of these cases were instances of voting in two different locations.

In discussing the case from 2000 in which a student claimed – falsely – that he had voted several times, Kennedy said that double voting can be done. The deterrent is that it's a felony, and that one person voting twice is not an effective way to influence an election. One would need to get a lot of people involved for it to work.

The task force set up to investigate the 2004 election found a small number of illegal votes but given the 7,000 alleged, it was a relatively small number. There was no pattern of fraud.

The one case Kennedy could recall of an organized effort to commit fraud was in the spring of 2003 or 2004. A community service agency had voters request that absentee ballots be sent to the agency instead of to the voters and some of those ballots were signed without the voters' knowledge. One person was convicted, the leader of the enterprise.

In Milwaukee, the main contention was that there were more ballots than voters. However, it was found that the 7,000 vote disparity was tied to poll worker error. The task force found that there was no concerted effort involved. Kennedy explained that there are many ways a ballot can get into a machine without a voter getting a number. These include a poll worker forgetting to give the voter one; someone does Election Day registration and fills out a registration form but does not get a number because the

transaction all takes place at one table; and in Milwaukee, 20,000 voters who registered were not put on the list in time and as a short term solution the department sent the original registration forms to the polling places to be used instead of the list to provide proof of registration. This added another element of confusion that might have led to someone not getting a voter number.

The Republican Party used this original list and contracted with a private vendor to do a comparison with the U.S. postal list. They found initially that there were 5,000 bad addresses, and then later said there were 35,000 illegitimate addresses. When the party filed a complaint, the department told them they could force the voters on their list to cast a challenge ballot. On Election Day, the party used the list but found no actually voting from those addresses. Kennedy suspects that the private vendor made significant errors when doing the comparison.

In terms of noncitizen voting, Kennedy said that there is a Russian community in Milwaukee that the Republican Party singles out every year but it doesn't go very far. Kennedy has not seen much in the way of allegations of noncitizen voting.

However, when applying for a drivers license, a noncitizen could register to vote. There is no process for checking citizenship at this point, and the statewide registration database will not address this. Kennedy is not aware of any cases of noncitizen voting as a result, but it might have happened.

Kennedy said that the biggest concern seemed to be suspicions raised when groups of people are brought into the polling site from group homes, usually homes for the disabled. There are allegations that these voters are being told how to vote.

Incidents of Voter Intimidation

In 2004, there was a lot of hype about challenges, but in Wisconsin, a challenger must articulate a basis under oath. This acts as a deterrent, but at the same time it creates the potential that someone might challenge everyone and create long lines, keeping people from voting. In 2004, the Republican Party could use its list of suspect addresses as a legitimate basis for challenges, so there is the potential for abuse. It is also hard to train poll workers on that process. In 2004, there were isolated cases of problems with challengers.

In 2002, a flyer was circulated only in Milwaukee claiming that you had vote by noon. This was taken as an intimidation tactic by the Democrats.

Reforms

Wisconsin has had difficulty with its database because 1) they have had a hard time getting a good product out of the vendor and 2) until now there was no registration record for one-quarter of the voters. Any jurisdiction with fewer than 5000 voters was not required to have a registration list.

In any case, once these performance issues are worked out, Kennedy does believe the statewide voter registration database will be very valuable. In particular, it will mean that people who move will not be on more than one list anymore. It should also address the double voting issue by identifying who is doing it, catching people who do it, and identifying where it could occur.

Recommendations

Better trained poll workers

Ensure good security procedures for the tabulation process and more transparency in the vote counting process

Conduct post-election audits

Interview with Lori Minnite, Barnard College

February 22, 2006

Background

Ms. Minnite is an assistant professor of political science at Barnard College. She has done substantial research on voter fraud and wrote the report "Securing the Vote." Ms. Minnite also did work related to an election lawsuit. The main question that she was asked to address in the lawsuit was---did election-day registration increase the possibility of fraud?

Securing the Vote

In *Securing the Vote*, Ms. Minnite found very little evidence of voter fraud because the historical conditions giving rise to fraud have weakened over the past twenty years. She stated that for fraud to take root a conspiracy was needed with a strong local political party and a complicit voter administration system. Since parties have weakened and there has been much improvement in the administration of elections and voting technology, the conditions no longer exist for large scale incidents of polling place fraud.

Ms. Minnite concentrates on fraud committed by voters not fraud committed by voting officials. She has looked at this issue on the national level and also concentrated on analyzing certain specific states. Ms. Minnite stressed that it is important to keep clear who the perpetrators of the fraud are and where the fraud occurs because that effects what the remedy should be. Often, voters are punished for fraud committed by voting officials.

Other Fraud Issues

Ms. Minnite found no evidence that NVRA was leading to more voter fraud. She supports non-partisan election administration. Ms. Minnite has found evidence that there is absentee ballot fraud. She can't establish that there is a certain amount of absentee ballot fraud or that it is the major kind of voter fraud.

Recommendations

Assure there are accurate voter records and centralize voter databases

Reduce partisanship in electoral administration.

Interview with Nina Perales, Counsel, Mexican American Legal Defense and Education Fund

March 7, 2006

Background

Ms. Perales is an attorney with the Mexican American Legal Defense Fund (MALDEF). MALDEF's mission is to foster sound public policies, laws and programs to safeguard the civil rights of the 40 million Latinos living in the United States and to empower the Latino community to fully participate in our society. One of the areas MALDEF works in is electoral issues, predominately centered on the Voting Rights Act. Ms. Perales did not seem to have a sense of the overall electoral issues in her working region (the southwest) effecting Hispanic voters and did not seem to want to offer her individual experiences and work activities as necessarily a perfect reflection of the challenges Hispanic voters face.

Largest Election Problems Since 2000

Santa Anna County, New Mexico-2004-intimidated voters by video taping them.

San Antonio-One African American voter subjected to a racial slur.

San Antonio-Relocated polling places at the last minute without Section 5 pre-clearance.

San Antonio-Closed polls while voters were still in line.

San Antonio-2003-only left open early voting polls in predominantly white districts.

San Antonio-2005-racially contested mayoral run-off election switched from touch screen voting to paper ballots.

Voter Fraud and Intimidation

In Texas, the counties are refusing to open their records with respect to Section 203 compliance (bilingual voting assistance), and those that did respond to MALDEF's request submitted incomplete information. Ms. Perales believes this in itself is a form of voter intimidation.

Ms. Perales said it is hard to say if the obstacles minorities confront in voting are a result of intentional acts or not because the county commission is totally incompetent. There have continuously been problems with too few ballots, causing long lines, especially in places that had historically lower turnout. There is no formula in Texas for allocating ballots – each county makes these determinations.

When there is not enough language assistance at the polls, forcing a non-English speaker to rely on a family member to vote, that can suppress voter turnout.

Ms. Perales is not aware of deceptive practices or dirty tricks targeted at the Latino community.

There have been no allegations of illegal noncitizen voting in Texas. Indeed, the sponsor of a bill that would require proof of citizenship to vote could not provide any documentation of noncitizen voting in support of the bill. The bill was defeated in part because of the racist comments of the sponsor. In Arizona, such a measure was passed. Ms. Perales was only aware of one case of noncitizen voting in Arizona, involving a man of limited mental capacity who said he was told he was allowed to register and vote. Ms. Perales believes proof of citizenship requirements discriminate against Latinos.

Recommendations

Ms. Perales feels the laws are adequate, but that her organization does not have enough staff to do the monitoring necessary. This could be done by the federal government. However, even though the Department of Justice is focusing on Section 203 cases now, they have not even begun to scratch the surface. Moreover, the choices DOJ has made with respect to where they have brought claims do not seem to be based on any systematic analysis of where the biggest problems are. This may be because the administration is so ideological and partisan.

Ms. Perales does not believe making election administration nonpartisan would have a big impact. In Texas, administrators are appointed in a nonpartisan manner, but they still do not always have a nonpartisan approach. Each administrator tends to promote his or her personal view regardless of party.

Interview with Pat Rogers, private attorney

March 3, 2006

Background

In addition to his legal practice with *Modrall, Sperling, Roehl, Harris & Sisk*, Rogers also does some state-level lobbying for Verizon Wireless, GM, Dumont and other companies. His experience in election law goes back to 1988, where his first elections case was a defense against Bill Richardson, who had sued to get another candidate tossed off a ballot because of petition fraud. Since 1988, he has been involved in election cases at least once every two years.

2004 Litigation

In a case that ended before the New Mexico Supreme Court, Rogers represented the Green Party and other plaintiffs against the New Mexico Secretary of State for sending a directive telling local boards not to require ID for first time voters registering by mail. He argued that this watered-down ID check conflicted with what seemed fairly clear statutory requirements for first time voters. In 2004 these requirements were especially important due to the large presence of 3rd party organizations registering voters such as a 527 funded by Governor Richardson, ACORN, and others.

Plaintiffs were seeking a temporary restraining order requiring Secretary of State to follow the law. Yet the Supreme Court ultimately decided that, whether the directive was right or wrong, it was too late to require ID lest Bush v. Gore issues be raised.

Today, the issue is moot as the state legislature has changed the law, and the Secretary of State will no longer be in office. It seems unlikely they will send any policy directives to county clerks lest they violate due process/public notice.

Major issues in NM w/ regard to vote fraud

Registration fraud seems to be the major issue, and while the legislature has taken some steps, Rogers is skeptical of the effect they will have, considering the history of unequal application of election laws. He also believes there are holes in the 3rd party registration requirement deadlines.

Rogers views a national law requiring ID as the best solution to registration problems. Rather than imposing a burden he contends it will enhance public confidence in the simplest way possible.

Registration Fraud in 2004 election

It came to light that ACORN had registered a 13 year old. The father was an APD officer and received the confirmation, but it was sent to the next door address, a vacant house.

They traced this to an ACORN employee and it was established that this employee had been registering others under 18.

Two weeks later, in a crack cocaine bust of Cuban nationals, one of those raided said his job was registering voters for ACORN, and the police found signatures in his possession for fictitious persons.

In a suspicious break-in at an entity that advertised itself as nonpartisan, only GOP registrations were stolen.

In another instance, a college student was allegedly fired for registering too many Republicans.

Rogers said he believed these workers were paid by the registration rather than hourly.

There have been no prosecution or convictions related to these incidents. In fact, there have been no prosecutions for election fraud in New Mexico in recent history. However, Rogers is skeptical that much action can be expected considering the positions of Attorney General, Governor, and Secretary of State are all held by Democrats. Nor has there been any interest from the U.S. attorney—Rogers heard that U.S. attorneys were given instruction to hold off until after the election in 2004 because it would seem too political.

As part of the case against the Secretary of State regarding the identification requirement, the parties also sued ACORN. At a hearing, the head of ACORN, and others aligned with the Democratic Party called as witnesses, took the 5th on the stand as to their registration practices.

Other incidents

Very recently, there have been reports of vote buying in the town of Espanola. Originally reported by the *Rio Grande Sun*, a resident of a low-income housing project is quoted as saying it has been going on for 10-12 years. The Albuquerque Journal is now reporting this as well. So far the investigation has been extremely limited.

In 1996, there were some prosecutions in Espanola, where a state district judge found registration fraud.

In 1991, the chair of Democratic Party of Bertolino County was convicted on fraud. Yet she was pardoned by Clinton on same day as Marc Rich.

Intimidation/Suppression

Rogers believes the most notable example of intimidation in the 2004 election was the discovery of a DNC Handbook from Colorado advising Democratic operatives to widely report intimidation regardless of confirmation in order to gain media attention.

In-person polling place fraud

There have only been isolated instances of people reporting that someone had voted in their name, and Rogers doesn't believe there is any large scale conspiracy. Yet he contends that perspective misses the larger point of voter confidence. Although there has been a large public outcry for voter ID in New Mexico, it has been deflected and avoided by Democrats.

In 2004, there were more Democratic lawyers at the polls than there are lawyers in New Mexico. Rogers believes these lawyers had a positive impact because they deterred people from committing bad acts.

Counting Procedures

The Secretary of State has also taken the position that canvassing of the vote should be done in private. In NM, they have a 'county canvas' where they review and certify, after which all materials—machine tapes, etc.,—are centralized with the Secretary of State who does a final canvass for final certification. Conducting this in private is a serious issue, especially considering the margin in the 2000 presidential vote in New Mexico was only 366 votes. They wouldn't be changing machine numbers, but paper numbers are vulnerable.

On a related note, NM has adopted state procedures that will ensure their reports are slower and very late, considering the 2000 late discovery of ballots. In a close race, potential for fraud and mischief goes up astronomically in the period between poll closing and reporting. Rogers believes these changes are going to cause national embarrassment in the future.

Rogers attributes other harmful effects to what he terms the Secretary of State's incompetence and inability to discern a nonpartisan application of the law. In the 2004 election, no standards were issued for counting provisional ballots. Furthermore, the Secretary of State spent over \$1 million of HAVA money for 'voter education' in blatant self-promotional ads.

Recommendations

Rogers believes it would be unfeasible to have nonpartisan election administration and favors transparency instead. To make sure people have confidence in the election, there must be transparency in the whole process. Then you don't have the 1960 vote coming down to Illinois, or the Espanola ballot or Dona Anna County (ballots found there in the 2000 election). HAVA funds should also be restricted when you have an incompetent, partisan Secretary of State.

There should be national standards for reporting voting results so there is less opportunity for fraud in a close race. Although he is not generally an advocate of national laws, he

does agree there should be more national uniformity into how votes are counted and recorded.

Interview with Rebecca Vigil-Giron, Secretary of State, New Mexico

March 24, 2006

Background

Vigil-Giron has been Secretary of State for twelve years and was the President of the National Association of Secretaries of State in 2004. Complaints of election fraud and intimidation are filed with the SOS office. She then decides whether to refer it to the local district attorney or the attorney general. Because the complaints are few and far between, the office does not keep a log of complaints; however, they do have all of the written complaints on file in the office.

Incidents of Fraud and Intimidation

During the 2004 election, there were a couple of complaints of polling place observers telling people outside the polling place who had just voted, and then the people outside were following the voters to their cars and videotaping them. This happened in areas that are mostly second and third generation Latinos. The Secretary sent out the sheriff in one instance of this. The perpetrators moved to a different polling place. This was the only incident of fraud or intimidation Vigil-Giron was aware of in New Mexico.

There have not been many problems on Native reservations because, unlike in many other states, in New Mexico the polling place is on the reservation and is run by local Native Americans. Vigil-Giron said that it does not make sense to have non-Natives running those polls because it is necessary to have people there who can translate. Because most of the languages are unwritten, the HAVA requirement of accessibility through an audio device will be very helpful in this regard. Vigil-Giron said she was surprised to learn while testifying at the Voting Rights Act commission hearings of the lack of sensitivity to these issues and the common failure to provide assistance in language minority areas.

In 2004 the U.S. Attorney, a Republican, suddenly announced he was launching an investigation into voter fraud without consulting the Secretary of State's office. After all of that, there was maybe one prosecution. Even the allegations involving third party groups and voter registration are often misleading. People doing voter registration drives encourage voters to register if they are unsure if they are already registered, and the voter does not even realize that his or her name will then appear on the voter list twice. The bigger problem is where registrations do not get forwarded to election administrators and the voter does not end up on the voting list on Election Day. This is voter intimidation in itself, Vigil-Giron believes. It is very discouraging for that voter and she wonders whether he or she will try again.

Under the bill passed in 2004, third parties are required to turn around voter registration forms very quickly between the time they get them and when they must be returned. If

they fail to return them within 48 hours of getting them, they are penalized. This, Vigil-Giron believes, is unfair. She has tried to get the Legislature to look at this issue again. Regarding allegations of vote buying in Espanola, Vigil-Giron said that the Attorney General is investigating. The problem in that area of New Mexico is that they are still using rural routes, so they have not been able to properly district. There has, as a result, been manipulation of where people vote. Now they seem to have pushed the envelope too far on this. The investigation is not just about vote buying, however. There have also been allegations of voters being denied translators as well as assistance at the polls.

Vigil-Giron believes there was voter suppression in Ohio in 2004. County officials knew thirty days out how many people had registered to vote, they knew how many voters there would be. Administrators are supposed to use a formula for allocation of voting machines based on registered voters. Administrators in Ohio ignored this. As a result, people were turned away at the polls or left because of the huge lines. This, she believes, was a case of intentional vote suppression.

A few years ago, Vigil-Giron heard that there may have been people voting in New Mexico and a bordering town in Colorado. She exchanged information with Colorado administrators and it turned out that there were no cases of double voting.

Recommendations

Vigil-Giron believes that linking voter registration databases across states may be a way to see if people who are registered twice are in fact voting twice.

The key to improving the process is better trained poll workers, who are certified, and know what to look for on Election Day. These poll workers should then work with law enforcement to ensure there are no transgressions.

There should be stronger teeth in the voter fraud laws. For example, it should be more than a fourth degree felony, as is currently the case.

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - Wrongful Removal from Registration Lists

City / County	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Source1	Source 2	Source 3
Pulaski	Arkansas	16-Apr-04		The US Department of Justice says county officials have violated election law and proposed a consent decree with the county regarding ballot gathering and counting. The Department investigated registration practices that may have disenfranchised numerous voters, including sending voters to multiple poll sites and voters wrongly missing from the registration list. Under the agreement, the county will fix the problems in the database and DOJ lawyers will monitor polling places and the clerk's office	AP			
	Colorado	31-Oct-04	presidential	Democrats are complaining about an attempt to remove up to 6,000 convicted felons from the electoral roll, at the behest of the state's Republican secretary of state, Donetta Davidson, despite a US federal law that prohibits eliminating a voter's rights within 90 days of an election to give time for the voter to protest.	The Observer			
	Florida	29-Sep-04	presidential	Secretary of State Hood tried to revive the discredited 2000 statewide purge list of suspected felons and ex-felons for 2004. That list disproportionately removed black voters from the rolls. The state tried to keep the list secret until forced to release it by court order. When it was released, it was found to contain a disproportionate number of black voters, including 2,000 who had had their rights restored and included several people who could show they had not criminal record at all. In addition, the list of 48,000 contained only 61 Hispanic names, way out of line with the strength of both the general Hispanic population and prison population. Hood was forced to drop the list	The Independent (UK)			
Newark	New Jersey	2-Nov-04	presidential	More than 200 voters sought court orders because they were turned away from a polling place, mostly because their names were not on voter lists. In 95% of the cases the judges ruled they could cast ballots.	AP			
Albany	New York	2-Nov-04	presidential	Students at SUNY Albany found their names no longer on the voter registration rolls, even though they had voted at the same location in the past	AP			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - Wrongful Removal from Registration Lists

Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2

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EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Deceptive Practices

City/County	State	Date	Type of Election	Alleged/Instance of fraud	Original Source	Source 1	Source 2	Source 3	Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2
Phoenix	Arizona	11-Dec-04	presidential	A Phoenix resident, a registered Democrat, says he received a call three days before the election that he was supposed to cast a ballot across town, 30 miles away, which was wrong. Legal experts believe thousands of other Arizonans received similar calls and are investigating whether the state Republican Party was the source. The Republican Party denies it.	Arizona Republic						
Tucson	Arizona	11-Dec-04	presidential	A voter found a message on her voting machine telling him to go to the wrong polling place. Using the "last number" dial back feature she got the local Republican headquarters.	Arizona Republic						
Jefferson	Colorado	24-Oct-04	presidential	Voters in Jefferson County have received calls from someone posing as an election official and instructing them to throw away their absentee ballots.	Denver Post						
	Florida	19-Jul-04		Election administrators post signs saying "Photo and Signature Identification Required" when those without such ID may vote by affidavit ballot	St Petersburg Times						
	Florida	31-Oct-04	presidential	Rumors have been circulated that people can't vote if they have outstanding child-support statements	New York Post						
Volusia	Florida	2-Nov-04	presidential	The Chair of the Election Assistance Commission was given a flyer distributed in a black neighborhood directing voters to the wrong address for polling stations, giving the contact information for the local NAACP	The New York Sun						
	Florida	3-Nov-04	presidential	From throughout the state, election officials said there were reports of voters receiving phone calls incorrectly telling them their polling places had been moved, or that they weren't allowed to vote. In Osceola County, voting-rights attorney Fatimah Gilliam said some voters received automated phone calls saying that their polling place was closed. The precinct, at the Robert Guevara Community Center in Buenaventura Lakes, is located in a predominantly Hispanic and highly Democratic neighborhood. In rural Lafayette County, Election Supervisor Lana B. Morgan said some voters reported people going door-to-door to tell them they needed to go to another county to vote -- information that Morgan said was both wrong and dangerous.	Orlando Sentinel						

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Deceptive Practices

	Florida	17-Nov-04	presidential	DNC Chair says phone calls were received by Democratic Party-aligned voters in Florida telling them to send their absentee ballots in only after Election Day was over.	Ethnic Newswatch								
	Florida	11-Dec-04	presidential	Some voters reported they were told they could vote by phone	Arizona Republic								
New Orleans	Louisiana	12-Dec-02	US Senate	The Landrieu campaign said a pamphlet was circulated in New Orleans public housing complexes just before the runoff. The document said: "Vote!!! Bad Weather? No problem!!! If the weather is uncomfortable on election day (Saturday December 7th) Remember you can wait and cast your ballot on Tuesday December 10th." Anyone who waited past Saturday, however, missed the chance to vote.	Times-Picayune								
Baltimore	Maryland	4-Nov-02	gubernatorial	Democrats produced fliers they said was circulating in some neighborhoods that reminded people to vote on Wednesday -- the day after election day -- and advised them to pay any parking tickets and overdue rent before they could vote	Washington Post								
Ann Arbor	Michigan	2-Nov-04	presidential	The Secretary of State had to put out a statement about where to send absentee ballots after voters in Ann Arbor received calls telling them to mail the ballots to the wrong address	AP								
Clark	Nevada	2-Nov-04	presidential	15-20 Democrats received calls claiming to be from the Board of Elections in which voters were told their poll site had moved. One woman contacted the party Monday and said a group of people visited her home over the weekend and told her that if she filled out her sample ballot, they would deliver it to the election division and save her a trip to the polls today. Hispanic residents have complained of phone calls from Republican representatives who said they can register their vote over the phone. Nevada Democratic Party spokesman Jon Summers said.	Las Vegas Review Journal								
Passaic	New Jersey	4-Dec-01	sheriff	Federal monitor reports that voters in Passaic City and Patterson received phone calls reminding them, falsely, that they would need identification such as a drivers license to vote. He said it seemed aimed at minority voters.	The Record								
	New Mexico	25-Oct-04	presidential	In a mass mailing, the Republican National Committee is citing Hispanic voter registration campaigns in New Mexico as proof that "Democrats...will cheat in order to win."	Washington Post								

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Deceptive Practices

	Ohio	26-Oct-04	presidential	<p>In Ohio, within little more than a week, the Board of Elections in Cuyahoga County received complaints of voters being contacted by people they said claimed to be from the election board: One Cleveland woman said her mother got a call from such a man telling her, falsely, that the location of her polling station had changed. Another woman said two men posing as election officials knocked on her door and said they had come to pick up her absentee ballot.</p> <p>An elderly woman in a suburban senior center complained about a call telling her the Nov. 2 election had been postponed until Nov. 3.</p> <p>The deputy director of the Board of Elections in Franklin County, which includes the capital Columbus, said his office was getting similar calls. At first they were "sporadic," he said, but now there are "a lot of them."</p>	Los Angeles Times						
	Ohio	28-Oct-04	presidential	<p>State officials say people have been impersonating party and elections officials on the phone directing people to go to the wrong polling place or to vote November 3. Tricks appeared targeted at African Americans, senior citizens and new voters. Democrats say Republican plans to engage in mass challenges is an effort to deny minorities access to the polls.</p>	UPI						
Lake County	Ohio	29-Oct-04	presidential	<p>A memo with a Lake County Board of Elections letterhead tells residents not to vote if registered by certain Democratic or progressive groups. Many voters received an "urgent advisory" claiming voters registered by the NAACP, the Democratic presidential campaign, their local congressional campaign, or America Coming Together are not eligible to vote</p>	Cleveland Plain Dealer						
	Ohio	31-Oct-04	presidential	<p>In Franklin, both Democrats and Republicans have been receiving phone calls from phony Board of Elections workers telling them that their polling places have been changed. A Republican spokesman say that Ohio Republicans have received calls telling them their absentee ballots will be picked up by election workers, which is illegal. In West Dayton, Democrats received calls reminding them to vote on November 5, three days after the election.</p>	New York Post						
Cleveland	Ohio	3-Nov-04	presidential	<p>In a suburb of Cleveland, some voters reported being told that "if they went in to vote and had any traffic violations, they would be arrested or fined," said Chellie Pingree, president of Common Cause.</p>	Chicago Tribune						

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EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Deceptive Practices

	Oregon	10-Nov-04	presidential	There are more than a dozen allegations of that would-be voters's registration cards were destroyed, altered or thrown away by canvassers. The cases are under investigation by the AG.	AP							
Philadelphia	Pennsylvania	25-Oct-04	presidential	An official said at a meeting of the city election board that he had received calls from about 30 longtime voters who said that they had received calls from someone telling them not to bother going to the polls because their registrations had expired. They had not.	Philadelphia Inquirer							
Allegheny	Pennsylvania	28-Oct-04	presidential	At the Ross Park Mall people are distributing leaflets printed on bogus, but official-looking, county stationery telling Republicans to vote Tuesday, Nov. 2, and Democrats to wait a day. The election will be over on Nov. 3. The fliers have succeeded in spreading confusion, and county officials spent parts of Wednesday fielding phone calls from residents. Officials say the fliers also turned up in mailboxes of homes in the North Hills. The letter reads in part: "Due to the immense voter turnout that is expected on Tuesday November 2 the state of Pennsylvania has requested and extended the voting period ... Voters will be able to vote on both November 2 and November 3." The letter is signed by "Anne Ryan," and a phone number on the flier rings in Tampa, Fla. Workers there reached by telephone denied any knowledge of the flier. Police are investigating.	Pittsburgh Tribune Review							
Westmoreland	Pennsylvania	3-Nov-04	presidential	Lawyers working for the Election Protection program got a call that in Westmoreland a radio station told listeners that people who had outstanding warrants against them would not be allowed to vote.	The New York Times							
	Pennsylvania	3-Nov-04	presidential	Dorm residents at Temple University and the University of Pennsylvania reported that a doctored version of an Associated Press news article left the impression that out-of-state students voting in Pennsylvania could be forced to repay state grants because of a residency controversy. It was unclear which group was orchestrating the false information, but both of the targeted universities are in heavily Democratic areas.	Knight-Ridder							
Columbia	South Carolina	1-Nov-04	presidential	Election Protection reports on a faked letter using NAACP letterhead that claims that those with an outstanding parking ticket or unpaid child support will be arrested if they vote.	Cox News Service							

EAC Voting Fraud-Voter Intimidation Preliminary Research

Nexis Articles - Deceptive Practices

	South Carolina	2-Nov-04	presidential	AP reported on a letter that falsely purported to be from the South Carolina NAACP to black voters, saying they couldn't vote if they owed more than \$50 in parking tickets	The New York Sun							
	South Carolina	3-Nov-04	presidential	A leaflet claiming to be issued by the NAACP warned residents that if they had outstanding traffic violations or had not submitted credit reports one week prior to the election, they would be barred from voting and could be arrested.	The New York Times							
	Virginia	31-Oct-04	presidential	Rumors have been circulated that police are setting up sting operations at polls to find any voters who are also on the outstanding warrants list.	New York Post							
Fredericksburg	Virginia	9-Nov-05	gubernatorial	Elections registrars receive many complaints of voters getting phone calls telling them falsely that their polling precinct had changed.	Free Lance Star							
Richmond	Virginia	9-Nov-05	gubernatorial	Residents report door-hangers with false precinct information on them	Free Lance Star							
Milwaukee	Wisconsin	31-Oct-04	presidential	In Wisconsin, a flier is circulating in Milwaukee's black neighborhoods that purports to be from the "Milwaukee Black Voters League." "If you've already voted in any election this year, you can't vote in the presidential election," the flier reads. "If you violate any of these laws, you can get ten years in prison and your children will get taken away from you."	Washington Post							
Madison	Wisconsin	27-Oct-05	presidential	Republicans ask the US attorney to investigate a letter a voter received claiming to be from the Republican National Committee and urging a vote for John Kerry	AP							

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Summary of South Dakota Election Irregularities in 2002 and 2004

2002

In fall 2002, one of South Dakota's Senators, Democrat Tim Johnson, was up for re-election, and was engaged in a very close race with his Republican challenger, John Thune. Both parties were engaged in a massive voter registration effort, and registered over 24,000 new voters in the five months between the June primary and the November election, increasing the number of registered voters in the state from around 452,000 to 476,000.¹

A month before the election, several counties reported irregularities in some of the voter registration documents they'd received. In response to these reports, South Dakota Attorney General, Mark Barnett, with the state US Attorney and the FBI, launched an investigation.² Because of the importance of the race in determining the partisan balance of power in the Senate, the voter registration discrepancies got a good deal of national press, including a number of editorials accusing American Indians of stuffing ballot boxes.³ The following allegations were also picked up by out-of-state newssources, including Fox News and the Wall Street Journal:

- Supporters of Thune, who lost the election by 524 votes, collected 47 affidavits from poll watchers claiming voting irregularities.
- Allegations were made that three individuals were offered money by Johnson supporters to vote.

Barnett, who was alerted to the affidavits when he read an early media report that referred to them, stated that these allegations were either false or didn't warrant concern. "Most of the stuff that's in those other 47 affidavits are the kind of problems that we see in every election. People parking too close to the polling place with a sign in their window, people shooting their mouths off at the polling place. The kind of things that local election officials generally do a pretty good job of policing."⁴ The allegations of voter bribery were false.

Though most of the allegations of fraud that were filed turned out to be false, Attorney General Barnett's investigation did uncover two cases of voter registration fraud:

- The most high-profile case was that of Becky Red Earth-Villeda. Ms. Red Earth-Villeda was hired by the state Democratic party to register voters on the American Indian reservations. She was charged with 19 counts of forgery. No fraudulent voting was associated with Ms. Red Earth-Villeda, nor was there any evidence

¹ Kafka, Joe. "More people registered to vote." *Associated Press State and Local Wire*. October 29, 2002.

² Kafka, Joe. "Voter registration fraud being investigated." *Associated Press State and Local Wire*. October 11, 2002.

³ "Barnett: No evidence that fraud affected vote." *Associated Press State and Local Wire*. Sioux Falls, South Dakota. November 21, 2002.

⁴ Kafka, Joe. "Woman charged in voter-fraud case, other claims false." *Associated Press State and Local Wire*. Pierre, South Dakota. December 14, 2002.

that fraudulent voting occurred in the state.⁵ All charges were dropped in January 2004, when, in court, it was determined by the state handwriting specialist that Ms. Red Earth-Villeda had not forged the signatures.⁶

- Lyle Nichols. Mr. Nichols was arrested for submitting five forged voter registration cards to his county office. He was working for an organization called the Native American Voter Registration Project, and was paid \$3 for each registration. The five charges were dropped after Mr. Nichols pleaded guilty to possession of a forgery, and was sentenced with 54 days in jail, which is how much time he'd already spent there because of the charges.⁷

2004

In October 2004, just before the general election, eight people working for a campus GOP Get-out-the-Vote organization resigned their positions after they were accused of submitting absentee ballot requests that had not been notarized properly. Because many of these ballot requests had already been processed and the ballots themselves had been cast, county auditors decided not to pursue the issue.⁸

Besides this incident, there were no reports of voter registration or voting irregularities in the run-up to the November 2004 election, as there were in 2002.⁹ However, as with the primary and special elections in June 2004, there were complaints about voter intimidation from American Indians attempting to vote, as well as difficulties with the adoption of the state's new photo identification regulations (after the 2002 election, the state legislature passed more stringent requirements about the kind of identification voters would need to provide at the polls.)

Incidents:

Voter Intimidation: The Four Directions Committee, an organization dedicated to helping American Indians register to vote and get to the polls, got a temporary restraining order on several Republican supporters who, they alleged, had been setting up video equipment outside of polling places on American Indian reservations and following around American Indians who voted early and recording their license plates.¹⁰

Vote Buying: A Republican election monitor from Virginia, Paul Brenner, claimed that Senator Tom Daschle's campaign was paying people to vote. Local county auditors

⁵ Kafka, Joe. "Woman charged in voter-fraud case, other claims false." *Associated Press State and Local Wire*. Pierre, South Dakota. December 14, 2002.

⁶ Walker, Carson. "Charges dropped against woman accused of voter fraud." *Associated Press State and Local Wire*. Sioux Falls, South Dakota. January 28, 2004.

⁷ "Rapid City man arrested for voter fraud." *Associated Press State and Local Wire*. Rapid City, South Dakota. October 18, 2002.

⁸ Melmer, David. "Voting problems resurface in South Dakota." *Indian Country Today*. October 27, 2004.

⁹ Melmer, David. "Election Day goes smoothly on Pine Ridge, S.D., reservation." *Indian Country Today*. November 10, 2004.

¹⁰ Walker, Carson. "Observer alleges vote buying; worker says he never went to Pine Ridge." *Associated Press State and Local Wire*. October 31, 2004.

believe Brenner started the rumor himself. As there was no evidence for either side, the claims were not taken seriously.¹¹

¹¹ Walker, Carson. "Some problems and oddities reported on Election Day." *Associated Press State and Local Wire*. November 2, 2004.

Summary of Election Irregularities in Washington State 2004

The 2004 Washington state gubernatorial election was decided by one of the narrowest margins in American electoral history; 261 votes – less than a millionth of the 2.8 million votes cast statewide - separated the leading candidate, Republican Dino Rossi, from his competitor, Democrat Christine Gregoire. The state law-mandated recount that followed brought the margin down to 42 votes, and the subsequent hand recount ordered by the state Democratic Party gave Gregoire the lead, with 129 more votes than Rossi.

The race was so close that the parties decided to go to court to dispute the tally – the Republicans wanted the election results set aside and to have a revote; the Democrats sought a court-legitimated win. Each side set out into the field to find a way to swing the election in their favor. The trial and accompanying investigation, which lasted through the spring of 2005, revealed a litany of problems with the state's election system:

- The process by which absentee ballots are matched to the voters who requested them led to discrepancies between the number of absentee ballots received and the number of votes counted.¹
- After the final certification of the election results, King County discovered 96 uncounted absentee ballots, Pierce county found 64, and Spokane County found eight; all had been misplaced following the election, but there was no mechanism for reconciling the number of absentee ballots received with the number counted.²
- Hundreds of felons who were ineligible to vote were able to cast ballots because they were not aware that they needed to apply to have their voting rights reinstated.³
- The system for verifying the eligibility of voters who had cast provisional ballots was found to be questionable.⁴
- Due to poll worker error, about 100 provisional ballots were improperly cast, and a hundred more were counted, though they were not verified as having been cast by eligible voters.⁵

The trial also revealed that most of these problems were the result of understaffing and human error.⁶ In total, 1,678 ballots were proven to have been cast illegally, but none of these votes was subtracted from the candidates' totals because no evidence was produced in court as to how each individual voted.⁷ Further, despite the scrutiny that the election

¹ Ervin, Keith. "County elections official demoted; 2004 balloting fallout – Chief predicts 'series of changes'." *The Seattle Times*. June 15, 2005. See also Postman, David. "Judge left to mull vote-fraud claim." *The Seattle Times*. June 5, 2005.

² Ervin, Keith. "Voters irked by uncounted ballots." *The Seattle Times*. June 17, 2005.

³ Postman, David. "Judge left to mull vote-fraud claim." *The Seattle Times*. June 5, 2005.

⁴ Roberts, Gregory. "GOP contrasts elections offices; Chelan County's work better than King's, judge in gubernatorial case told." *The Seattle Post-Intelligencer*. May 25, 2005.

⁵ Ervin, Keith. "Prosecutors to challenge 110 voters; They are said to be felons – 2 counties discover uncounted ballots." *The Seattle Times*. April 29, 2005.

⁶ Ervin, Keith. "King County ballot numbers don't add up; 4000 discrepancies – Review of records finds flaws at each stage of the election; voting, processing, counting." *The Seattle Times*. May 25, 2005.

⁷ *Borders v. King County*. Court's Oral Decision. 6. June. 2005.

returns revealed, and the extensive discussion of voter fraud throughout the investigation, just eight cases of voter fraud were discovered:

- 4 people were accused of casting absentee ballots for their deceased spouses.⁸
- A mother and daughter were charged with the absentee ballot of the mother's husband who had died earlier in the year
- 1 man cast the ballot of the deceased prior resident of his home.
- A homeless resident of Seattle cast two ballots, one in the name of Dustin Ocoilain.⁹

⁸ Johnson, Gene. "Two plead guilty to voting twice in 2004 general election." *Associated Press*. June 2, 2005.

⁹ Ervin, Keith. "6 accused of casting multiple votes; King County voters face criminal charges - Jail time, fines possible." *Seattle Times*. June 22, 2005.

Summary of Wisconsin Voting Irregularities November 2004

Instances of Illegal Voting, Milwaukee:

A probe led by U.S. Attorney Steve Biskupic and Milwaukee County District Attorney Michael McCann found about 200 cases of illegal felon voting and at least 100 cases of other forms of illegal voting in the city of Milwaukee. Of these, 14 were prosecuted:

10 were instances of felons voting while on probation or parole:

5 are awaiting trial. (one of them is DeShawn Brooks)¹

1 has been acquitted²

1 has been found guilty in trial (Kimberly Prude)²

3 have reached plea agreements (Milo Ocasio³)

[names: Ethel M. Anderson, Correan F. Edwards, Jiyto L. Cox, Joseph J. Gooden⁴]

4 were instances of double voting:

1 produced a hung jury (Enrique Sanders)²

1 was found incompetent to stand trial and his case was dismissed

1 initially pleaded guilty but now wants a trial.⁵

1 is awaiting trial.

Two of those accused of double voting were driven to multiple polling places in a van, but the identity of the driver of the vehicle is not known, and the DA does not suspect conspiracy.⁶

In addition to these, four people were charged with felonies in the Milwaukee County Circuit Court; two cases were filed against people accused of sending in false registration cards under the auspices of the Association of Community Organizations for Reform Now; the other two were felons who voted illegally.⁷

Instances of Illegal Voting, Statewide:

The Legislative Audit Bureau, a nonpartisan research agency, released its analysis of state-wide 2004 election results in September 2005. The agency reviewed the names, addresses, and birthdates of over 348,000 individuals credited with having voted in November 2004, from the electronic voter registration records of 6 cooperating municipalities, and compared them to lists from the Department of Corrections of felons serving sentences on election day, and to lists from the municipalities (to check up on

¹ Barton, Gina. "Man acquitted in voter fraud trial; Felon had been under supervision at time." *Milwaukee Journal-Sentinel*. October 6, 2005.

² Schultze, Steve. "No vote fraud plot found. Inquiry leads to isolated cases, Biskupic says." *Milwaukee Journal-Sentinel*. December 5, 2005.

³ "Felon says he voted illegally." *Milwaukee Journal-Sentinel*. September 17, 2005.

⁴ Barton, Gina. "4 charged with voting illegally in November." *Milwaukee Journal-Sentinel*. August 17, 2005.

⁵ Milwaukee J-S. December 5, 2005.

⁶ Milwaukee J-S. December 5, 2005.

⁷ Milwaukee J-S. December 5, 2005.

double-voting) and to lists from the US Social Security Administration. LAB's search revealed 105 "questionable" votes:

- 98 ballots cast by ineligible felons, 57 of which were in Madison, 2 in Waukesha, 15 in Eau Claire, 16 in Appleton, 1 in the Village of Ashwaubenon
- 2 instances of double-voting (one in Madison, one in Waukesha).
- 4 votes counted despite the voter's having died two weeks or less before the election.
- 1 case in which a 17-year-old voted in Madison.⁸

The LAB referred the names of these people to the appropriate District Attorney for prosecution, and several cases are awaiting trial.

It should be noted that this study is not a complete survey of election returns state-wide in Wisconsin; the LAB's analysis is based on the voting records of the six municipalities that provided the LAB with sufficient information to conduct this study.

It should also be noted that the LAB discovered significant error in the data provided them by these municipalities, including:

- 91 records in which the individual's birthdate was incorrectly recorded as later than November 2, 1986
- 97 cases in which a person was mistakenly recorded as having voted twice
- More than 15,000 records were missing birthdates, making it more difficult to determine voter eligibility by comparing these records to lists of felons and deceased persons.⁹

General Findings

Both reports (the Legislative Audit Bureau's and the report of the Joint Task Force on Election Reform convened in Milwaukee) that did in-depth studies of the Wisconsin election returns in 2004 found that there was no evidence of systematic, wide-spread fraud.¹⁰ As the above statistics indicate, there are very few cases in which an individual intentionally voted illegally, and the majority of the discovered instances of fraudulent voting involved felons who were unaware that they were committing a crime. Certainly the number of fraudulent votes, intentional and unintentional, is dwarfed by the amount of administrative error – and the amount of potential there was for fraud.

Registration Irregularities

⁸ Borowski, Greg J. "State audit digs up wider vote problems; Thousands of voters on rolls more than once." *Milwaukee Journal-Sentinel*. September 17, 2005

⁹ "An Evaluation: Voter Registration." *Legislative Audit Bureau*. Madison, Wisconsin. September 2005. Pg. 50-52.

¹⁰ Brinkman, Phil. "Voting fraud in November not a problem in Madison; Nearly all suspect voters turn out to be people who moved or made innocent mistakes." *Wisconsin State Journal*. May 11, 2005.

Duplicate Registrations: In the data from the six participating municipalities, LAB found 3116 records for individuals who appear to be registered more than once in the same municipality (0.9% of the records they reviewed). These duplications were primarily the result of name changes, in which the registrar neglected to remove the old name from the registration list, previous addresses that were not deleted, and misspellings and other typographical errors.

Deceased Voters: the LAB study found 783 persons who were deceased, but whose records had not been eliminated from the registration lists. Most of the municipalities participating in the survey rely on obituaries and notifications from family members to purge their voter registration lists of deceased voters.

Felons: Comparing a list of felons from the Department of Corrections to their voter registration data lists, LAB found 453 felons who were registered to vote. This is largely because, although municipal clerks are informed of federal felony convictions, they have no way of obtaining records on state felony convictions.¹¹

¹¹ Legislative Audit Bureau Report: pg 43-47.

MAJOR VOTE BUYING CASES SUMMARY

Between 2001 and 2006, allegations and convictions for vote buying and conspiracies to buy votes were concentrated in three states: Illinois, West Virginia and Kentucky.

In **East St. Louis, Illinois**, nine individuals, including a former city council member and the head of the local Democratic Party, Charles Powell, Jr., were convicted or pled guilty to vote buying and conspiracy to commit election fraud during the 2004 general election. The government's conspiracy case was almost entirely based on taped conversations in which the defendants discussed buying votes for \$5 and whether this would be adequate. Federal prosecutors alleged that the vote buying was financed with \$79,000 transferred from the County Democratic Party shortly before the election, although county officials have not been charged. Four defendants were convicted of purchasing or offering to purchase at least one vote directly, while Democratic Party chairman was only convicted of conspiracy.¹ Earlier, three precinct officials and one precinct worker pled guilty to buying votes for \$5 or \$10 in that same election.²

Eastern Kentucky has witnessed a series of vote buying cases over the last several years. The most recent revolved around Ross Harris, a Pike County political fundraiser and coal executive, and his associate Loren Glenn Turner. Harris and Turner were convicted in September 2004 of vote buying, mail fraud, and several other counts.³ Prosecutors alleged Harris and Turner conspired to buy votes and provided the necessary funds in an unsuccessful 2002 bid for Pike County district judge by former State Senator Doug Hays. Harris supplied nearly \$40,000, Turner laundered the money through straw contributors, and the cash was then disbursed in the form of \$50 checks ostensibly for 'vote hauling', the legal practice of paying campaign workers to get voters to the polls which is notorious as a cover for buying votes.⁴ Harris attempted to influence the race on behalf of Hays in order to get revenge on Hays' opponent for a personal matter.⁵

A grand jury initially indicted 10 individuals in connection with the Harris and Turner case, including Hays and his wife, and six campaign workers. Of the remaining defendants, only one, Tom Varney, also a witness in the Hays case, pled guilty. The others were either acquitted of vote buying charges or had vote buying charges dropped.⁶ Prosecutors have announced that their investigation continues into others tied to Harris and may produce further indictments.

The Harris case follows a series of trials related to the 1998 Knott County Democratic primary. Between 2003 and 2004, 10 individuals were indicted on vote buying charges, including a winning candidate in those primaries, Knott County judge-executive Donnie Newsome, who was reelected in 2002. In 2004 Newsome and a supporter were sent to jail and fined. Five other

¹ "Five convicted in federal vote-fraud trial" Associated Press, June 30, 2005; "Powell gets 21 months" Belleville News-Democrat, March 1, 2006.

² "Four Plead Guilty To Vote-Buying Cash Was Allegedly Supplied By St. Clair Democratic Machine" Belleville News-Democrat, March 23, 2005.

³ "2 found guilty in pike county vote-fraud case; Two-year sentences possible," Lexington Herald Leader, September 17, 2004.

⁴ "Jury weighing vote-fraud case," Lexington Herald Leader, September 16, 2004.

⁵ "Pike Election Trial Goes To Jury" Lexington Herald Leader, January 1, 2006.

⁶ "Former state senator acquitted of vote buying," Lexington Herald Leader, November 2, 2004.

defendants pled guilty to vote buying charges, and three were acquitted. The primary means of vote buying entailed purchasing absentee votes from elderly, infirm, illiterate or poor voters, usually for between \$50 and \$100. This resulted in an abnormally high number of absentee ballots in the primary.⁷ Indictments relating to that same 1998 primary were also brought in 1999, when 6 individuals were indicted for buying the votes of students at a small local college. Five of those indicted were convicted or pled guilty.⁸

Absentee vote buying was also an issue in 2002, when federal prosecutors opened an investigation in Kentucky's Clay County after an abnormal number of absentee ballots were filed in the primary and the sheriff halted absentee voting twice over concerns.⁹ Officials received hundreds of complaints of vote-buying during the 2002 primary, and state investigators performed follow up investigations in a number of counties, including Knott, Bell, Floyd, Pike, and Maginoff.¹⁰ No indictments have been produced so far.

So far, relatively few incidents of vote-buying have been substantially identified or investigated in the 2004 election. Two instances of vote buying in local 2004 elections have been brought before a grand jury. In one, a Casey County man was indicted for purchasing votes in a local school board race with cash and whiskey.¹¹ In the second, the grand jury chose not to indict an individual accused of offering to purchase a teenager's vote on a local proposal with beer.¹²

An extensive vote buying conspiracy has also been uncovered in southern **West Virginia**. The federal probe, which handed down its first indictment in 2003, has yielded more than a dozen guilty pleas to charges of vote buying and conspiracy in elections since the late 1980s. As this area is almost exclusively dominated by the Democratic Party, vote-buying occurred largely during primary contests.

The first phase of the probe focused on Logan County residents, where vote buying charges were brought in relation to elections in 1996, 2000, 2002 and 2004. In an extraordinary tactic, the FBI planted the former mayor of Logan City, Tom Esposito, as a candidate in a state legislative race. Esposito's cooperation led to guilty pleas from the Logan County Clerk, who pled guilty to selling his vote to Esposito in 1996,¹³ and another man who took money from Esposito for the purpose of vote buying in 2004.¹⁴

Guilty pleas were also obtained in connection with former county sheriff Johnny Mendez, who pled guilty to buying votes in two primary elections in order to elect candidates including

⁷ "Knott County, KY., Judge Executive sentenced on vote-buying conspiracy charges," Department of Justice, March 16, 2004.

⁸ "6 men accused of vote fraud in '98 Knott primary; Charges include vote buying and lying to FBI"

⁹ "Election 2002: ABSENTEE BALLOTING; State attorney general's office investigates voting records in some counties" The Courier-Journal, November 7, 2002.

¹⁰ "Election 2002: Kentucky; VOTE FRAUD; Investigators monitor 17 counties across state" The Courier-Journal, November 6, 2002.

¹¹ "Jury finds man guilty on vote-buying charges" Associated Press, November 11, 2005.

¹² "Man in beer vote case files suit" The Cincinnati Enquirer, March 17, 2005.

¹³ "Two plead to vote fraud; Logan clerk sold vote; politician tried to buy votes" Charleston Gazette, December 14, 2005.

¹⁴ "Logan man gets probation in vote-fraud scandal" Charleston Gazette, March 1, 2006.

EAC Preliminary Research on Voting Fraud and Voter Intimidation

himself. In 2000, with a large amount of funding from a prominent local lawyer seeking to influence a state delegate election for his wife, Mendez distributed around \$10,000 in payments to voters of \$10 to \$100. Then, in the 2004 primary, Mendez distributed around \$2,000 before his arrest.¹⁵ A deputy of Mendez', the former Logan police chief, also pled guilty to a count of vote buying in 2002.¹⁶

Prosecutors focusing on neighboring Lincoln County have alleged a long-standing vote-buying conspiracy extending back to the late 1980s. The probe identified Lincoln County Circuit Clerk Greg Stowers as head of a Democratic Party faction which routinely bought votes in order to maintain office. Stowers pled guilty in December 2005 to distributing around \$7,000 to buy votes in the 2004 primary. The Lincoln County Assessor, and Stowers' longtime political ally, Jerry Allen Weaver, also pled guilty to conspiracy to buy votes.¹⁷ These were accompanied by four other guilty pleas from party workers for vote buying in primaries. While most specific charges focused on vote buying in the 2004 primary, defendants also admitted buying votes as far back as the 1988, 1990, and 1992 primaries.

The leading conspirators would give party workers candidate slates and cash, which workers would then take to the polling place and use to purchase votes for amounts between \$10 and \$40 and in one instance, for liquor. Voters would be handed the slate of chosen candidates, and would then be paid upon exiting the polling place. In other cases, the elected officials in question purchased votes in exchange for non-cash rewards, including patronage positions, fixed tickets, favorable tax assessments, and home improvements.¹⁸

The West Virginia probe is ongoing, as prosecutors are scrutinizing others implicated during the proceedings so far, including a sitting state delegate, who may be under scrutiny for vote buying in a 1990 election, and one of the Lincoln county defendants who previously had vote buying charges against him dropped.¹⁹

¹⁵ "Mendez confined to home for year Ex-Logan sheriff was convicted of buying votes" Charleston Gazette, January 22, 2005.

¹⁶ "Ex-Logan police sentenced for buying votes" Associated Press, February 15, 2005.

¹⁷ "Clerk says he engaged in vote buying" Charleston Gazette, December 30, 2005.

¹⁸ "Lincoln clerk, two others plead guilty to election fraud" Charleston Daily Mail, December 30, 2005.

¹⁹ "Next phase pondered in federal vote-buying probe" Associated Press, January 1, 2006.

TOVA WANG ON THE EAC GAG ORDER

I have just received this press release via email:

Contact James Joseph, Arnold & Porter -- (202) 942-5355, james_joseph@aporter.com

Tova Andrea Wang, Co-Author of the Voter Fraud and Voter Intimidation Report for the Election Assistance Commission, Calls for an End to the Censorship

Over the last few weeks, there has been a developing controversy in the press and in the Congress over a report on voter fraud and voter intimidation I co-authored for the Election Assistance Commission ("EAC"). It has been my desire to participate in this discussion and share my experience as a researcher, expert and co-author of the report. Unfortunately, the EAC has barred me from speaking. Early last week, through my attorney, I sent a letter to the Commission requesting that they release me from this gag order. Despite repeated follow-up, the EAC has failed to respond to this simple request. In the meantime, not only can I not speak to the press or public -- it is unclear under the terms of my contract with the

013551

EAC whether I can even answer questions from members of Congress.

My co-author and I submitted our report in July 2006; the EAC finally released its version of the report in December 2006. As numerous press reports indicate, the conclusions that we found in our research and included in our report were revised by the EAC, without explanation or discussion with me, my co-author or the general public. From the beginning of the project to this moment, my co-author and I have been bound in our contracts with the EAC to silence regarding our work, subject to law suits and civil liability if we violate the EAC-imposed gag order. Moreover, from July to December, no member of the EAC Commission or staff contacted me or my co-author to raise any concerns about the substance of our research. Indeed, after I learned that the EAC was revising our report before its public release, I contacted the EAC, and they refused to discuss with me the revisions, or the reasons such revisions were necessary.

Stifling discussion and debate over this report and the critical issues it addresses is contrary to the mission and

goals of the EAC and to the goal of ensuring honest and fair elections in this country. Commissioner Hillman stated in her defense of the EAC's actions that the EAC seeks to "ensure improvements in the administration of federal elections so that all eligible voters will be able to vote and have that vote recorded and counted accurately." I share this aspiration. But I believe that the best way to achieve that end is not by suppressing or stifling debate and discussion, but by engaging in a thoughtful process of research and dialogue that ultimately arrives at the truth about the problems our voting system currently confronts.

I'm ready to wear my "Free Tova Wang" t-shirt. **UPDATE:**

More from Dan Tokaji [here](#).

Posted by Rick Hasen at [08:46 AM](#)

013553

Defining Election Fraud

Deliberative Process Privilege

Election fraud is any intentional action, or intentional failure to act when there is a duty to do so, that corrupts the election process in a manner that can impact on election outcomes. This includes interfering in the process by which persons register to vote; the way in which ballots are obtained, marked, or tabulated; and the process by which election results are canvassed and certified.

Examples include the following:

- falsifying voter registration information pertinent to eligibility to cast a vote, (e.g. residence, criminal status, etc);
- altering completed voter registration applications by entering false information;
- knowingly destroying completed voter registration applications (other than spoiled applications) before they can be submitted to the proper election authority;
- knowingly removing eligible voters from voter registration lists, in violation of HAVA, NVRA, or state election laws;
- intentional destruction by election officials of voter registration records or balloting records, in violation of records retention laws, to remove evidence of election fraud;
- vote buying;
- voting in the name of another;
- voting more than once;
- coercing a voter's choice on an absentee ballot;
- using a false name and/or signature on an absentee ballot;
- destroying or misappropriating an absentee ballot;
- felons, or in some states ex-felons, who vote when they know they are ineligible to do so;
- misleading an ex-felon about his or her right to vote;
- voting by non-citizens who know they are ineligible to do so;
- intimidating practices aimed at vote suppression or deterrence, including the abuse of challenge laws;
- deceiving voters with false information (e.g.; deliberately directing voters to the wrong polling place or providing false information on polling hours and dates);
- knowingly failing to accept voter registration applications, to provide ballots, or to accept and count voted ballots in accordance with the Uniformed and Overseas Citizens Absentee Voting Act;
- intentional miscounting of ballots by election officials;
- intentional misrepresentation of vote tallies by election officials;

- acting in any other manner with the intention of suppressing voter registration or voting, or interfering with vote counting and the certification of the vote.

Voting fraud does not include mistakes made in the course of voter registration, balloting, or tabulating ballots and certifying results. For purposes of the EAC study, it also does not include violations of campaign finance laws.

DRAFT

**Deliberative Process
Privilege**

Voter fraud is any intentional action or any omission to act when there is a duty to do so that corrupts the process by which ballots are obtained, marked, or tabulated; the process by which election results are canvassed and certified; or the process by which voters are registered. This includes: (1) coercing a voter's choice on an absentee ballot; (2) using a false name and signature on an absentee ballot; (3) destroying or misappropriating of an absentee ballot; (4) voting by felons or in some states ex-felons; (5) misleading an ex-felon about his or her right to vote; (6) voting more than once; (7) voting by non-citizens; (8) intimidating practices aimed at vote suppression; (9) deceiving voters with false information (10) mishandling of ballots by election officials; (11) miscounting of ballots by election officials; (12) misrepresenting vote tallies by election officials; (13) adding of ballots by election officials; (14) destroying ballots by election officials; (15) removing of eligible voters from voter registration lists; (16) falsifying voter registration information; (17) destroying completed voter registration forms; (18) buying of votes; (19) failing to follow the requirements of the Voting Rights Act and other voting rights laws, such as the National Voter Registration Act; (20) failing to enforce required state election laws; (21) abusing voter challenges; (22) purging of voter rolls in violation of HAVA; (23) failing to follow the requirements of the Uniformed and Overseas Citizens Absentee Voting Act; (24) acting in any other manner with the intention of suppressing voter registration, voting, or the corrupting of the voting process.

013556

**Deliberative Process
Privilege**

Voter fraud is any intentional action or any omission to act when there is a duty to do so that corrupts the process in a way that has an actual impact on election outcomes. This can include the way in which ballots are obtained, marked, or tabulated; the process by which election results are canvassed and certified; or the process by which voters register to vote. Examples include the following: (1) coercing a voter's choice on an absentee ballot; (2) using a false name and/or signature on an absentee ballot; (3) destroying or misappropriating of an absentee ballot; (4) felons or in some states ex-felons who vote when they know they are ineligible to do so; (5) misleading an ex-felon about his or her right to vote; (6) voting more than once; (7) intentional voting by non-citizens who know they are ineligible to do so; (8) intimidating practices aimed at vote suppression or deterrence; (9) deceiving voters with false information (10) intentional mishandling of ballots by election officials; (11) intentional miscounting of ballots by election officials; (12) intentional misrepresenting vote tallies by election officials; (13) adding of ballots by election officials; (14) destroying ballots by election officials; (15) removing of eligible voters from voter registration lists; (16) knowingly falsifying voter registration information pertinent to eligibility to cast a vote, e.g. residence, criminal status, etc.; (17) destroying completed voter registration forms; (18) buying of votes; (19) failing to follow the requirements of the Voting Rights Act and other voting rights laws, such as the National Voter Registration Act; (20) failing to enforce required state election laws; (21) abusing voter challenge laws; (22) purging of voter rolls in violation of HAVA and NVRA; (23) failing to follow the requirements of the Uniformed and Overseas Citizens Absentee Voting Act; (24) acting in any other manner with the intention of suppressing voter registration, voting, or vote counting.

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Voter fraud means intentional misrepresentation, trickery, deceit, or deception, arising out of or in connection with voter registration or voting

Case Summaries

After reviewing over 40,000 cases, the majority of which came from appeals courts, I have found comparatively very few which are applicable to this study. Of those that are applicable, no apparent thematic pattern emerges. However, it seems that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility. But because so few cases provided a picture of these current problems, I suggest that case research for the second phase of this project concentrate on state trial-level decisions.

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Powers v. Donahue	Supreme Court of New York, Appellate Division, First Department	276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644	December 5, 2000	Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names.	When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed.			
Goodwin v. St. Thomas--	Territorial Court of the	43 V.I. 89; 2000	December 13, 2000	Plaintiff political candidate alleged that certain general	Plaintiff alleged that defendants	No	N/A	No

013562

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
St. John Bd. of Elections	Virgin Islands	V.I. LEXIS 15		election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots.	counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.</p>			
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala.	December 9, 2005	The circuit court overturned the results of a mayoral	The voters and the incumbent all	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 214		election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of its judgment pending resolution of the appeal.	challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with			

013566

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed.</p>			
Gross v. Albany County Bd. of Elections	Supreme Court of New York, Appellate Division, Third Department	10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y.	August 23, 2004	Appellant candidates appealed from a judgment entered by the supreme court, which partially granted the candidates' petition challenging the method used by respondent	The candidates argued that the Board violated a federal court order regarding the election. The appellate court	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		App. Div. LEXIS 10360		Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County Legislator, 26th and 29th Districts, in a special general election required by the federal courts.	held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>identify their physician on their applications. A ballot was properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was</p>			

013570

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.			
Erlandson v. Kiffmeyer	Supreme Court of Minnesota	659 N.W.2d 724; 2003 Minn. LEXIS 196	April 17, 2003	Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican	The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Party. The instant court granted review.	nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot.			
People v. Deganutti	Appellate Court of Illinois, First District, Third Division	348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill.	May 12, 2004	Defendant appealed from a judgment of the circuit court, which convicted defendant on charges of unlawful observation of voting and on charges of	Defendant went to the voters' homes and obtained their signatures on absentee ballot	No	N/A	No

013574

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		App. LEXIS 518		absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters.	request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re--punch a number that had not			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p>			

013576

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed.			
Jacobs v. Seminole County Canvassing Bd.	Supreme Court	773 So. 2d 519; 2000 Fla. LEXIS 2404	December 12, 2000	In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in	Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Seminole County in the 2000 presidential election.	Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					other party's forms. Affirmed.			
Gross v. Albany County Bd. of Elections	Court of Appeals of New York	3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412	October 14, 2004	Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters.	Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors." Affirmed.</p>			

013582

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election	Supreme Court of Pennsylvania	577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431	March 8, 2004	A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain candidates and voters.	The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non-disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third-person hand-delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in-person delivery</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.</p>			
In re Canvass of	Commonwealth Court of	839 A.2d 451;	December 22, 2003	The Allegheny County Elections Board did not	On appeal, the issue was whether	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Absentee Ballots of November 4, 2003	Pennsylvania	2003 Pa. Commw. LEXIS 963		allow 74 challenged third-party hand-delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order.	non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory			

013586

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken.			
United States v. Pennsylvania	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21167	October 20, 2004	Plaintiff United States sued defendant Commonwealth of Pennsylvania, governor, and state secretary, claiming that overseas	The testimony of the two witnesses offered by the United States did not support its	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so late in the election year.</p>	<p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied.			
Hoblock v. Albany County Bd. of Elections	United States District Court for the Northern District of New York	341 F. Supp. 2d 169; 2004 U.S. Dist.	October 25, 2004	Plaintiffs, candidates and voters, sued defendant, the Albany County, New York, Board of Elections, under § 1983, claiming that the Board violated plaintiffs'	An election for members of the Albany County Legislature had been enjoined, and special	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 21326		Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction.	primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Board from certifying winners of the election was granted.			
Griffin v. Roupas	United States Court of Appeals for the Seventh Circuit	385 F.3d 1128; 2004 U.S. App. LEXIS 21476	October 15, 2004	In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim.	The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p>			

013597

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					applied to everyone. Affirmed.			
Reitz v. Rendell	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21813	October 29, 2004	Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a voluntary agreement and submitted it to the court for approval.	The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.			
Bush v. Hillsborough County Canvassing Bd.	United States District Court for the Northern District of Florida	123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265	December 8, 2000	The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.	Plaintiff presidential and vise--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed	No	N/A	No

013600

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot</p>			

013602

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p>			
Kolb v.	Supreme Court	270	March 17,	Both petitioner and	Both petitioner	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Casella	of New York, Appellate Division, Fourth Department	A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483	2000	respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election.	and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registration card signature----and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee</p>			

013605

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.			
People v. Woods	Court of Appeals of Michigan	241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156	June 27, 2000	Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to pursue the interlocutory appeal, in a criminal action alleging violations of election laws.	Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election	No	N/A	No

013600

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary</p>			

013607

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to</p>			

013608

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense.			
Harris v. Florida Elections Canvassing Comm'n	United States District Court for the Northern District of Florida	122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875	December 9, 2000	Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the ballots violated Florida law.	The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did	No	N/A	No

013609

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982.			
Weldon v. Berks County Dep't of Election Servs.	United States District Court for the Eastern District of Pennsylvania	2004 U.S. Dist. LEXIS 21948	November 1, 2004	Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county	The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p>	<p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p>			

013611

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8.</p> <p>OVERVIEW: The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction.			
Qualkinbush v. Skubisz	Court of Appeals of Illinois, First District	822 N.E.2d 38; 2004 Ill. App. LEXIS 1546	December 28, 2004	Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court declared petitioner mayor.	Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters.</p> <p>Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots.</p> <p>The Election Code did not violate equal protection principles, as the burden placed</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.			
Panio v. Sunderland	Supreme Court of New York, Appellate Division, Second Department	14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433	January 25, 2005	In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent	The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by:	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Democratic candidate cross--appealed.	(1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count			

013618

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					equivalent of an application for a special ballot. Order modified and judgment affirmed.			
Pierce v. Allegheny County Bd. of Elections	United States District Court for the Western District of Pennsylvania	324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569	November 13, 2003	Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third--party absentee ballot delivery, require the set aside of all absentee third--party delivered ballots in connection with the November 2003 election, prohibit those ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction.	Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>regarding whether the absentee ballot provision requiring hand-delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court by virtue of the state court's concurrent jurisdiction.			
Friedman v. Snipes	United States District Court for the Southern District of Florida	345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739	November 9, 2004	Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction.	The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of §	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Preliminary injunction denied.			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed.	No	N/A	No

013627

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				of the Voting Rights Act. The parties filed cross-motions for summary judgment.	schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>minorities; as a result, minorities were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.</p>			
Farrakhan v. Washington	United States Court of Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p>	<p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim.			
Muntaqim v. Coombe	United States Court of Appeals for the Second Circuit	366 F.3d 102; 2004 U.S. App. LEXIS 8077	April 23, 2004	Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation	At issue was whether the VRA could be applied to N.Y. Elec. Law § 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				of § 2 of the Voting Rights Act of 1965.	New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					district court's judgment was affirmed.			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	353 F.3d 1287; 2003 U.S. App. LEXIS 25859	December 19, 2003	Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.	The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a	No	N/A	No

013638

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violation of federal voting laws and remanded the matter to the district court for further proceedings.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p>			

013642

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.</p>			
Johnson v. Governor of	United States Court of	405 F.3d 1214;	April 12, 2005	Plaintiff individuals sued defendant	The individuals argued that the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Fla.	Appeals for the Eleventh Circuit	2005 U.S. App. LEXIS 5945		members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.	racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p>			

013645

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw.	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief as	Petitioner convicted felons were presently or had formerly been confined in state	No	N/A	No

013646

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 534		to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights.	prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners'			

013647

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing and the court overruled objection as to deprivation of ex-felon voting rights. The court sustained respondents' objection since</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.			
Rosello v. Calderon	United States District Court for the District of Puerto Rico	2004 U.S. Dist. LEXIS 27216	November 30, 2004	Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the invalidity of	The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				absentee and split ballots in a gubernatorial election.	same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal			

013650

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>constitutions. The court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					pursuant to federal guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.			
Woodruff v. Wyoming	United States Court of Appeals for the Tenth Circuit	49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060	October 7, 2002	Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10--106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon	The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>which relief could be granted and as frivolous.</p>	<p>fee or filed a motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who</p>			

013653

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					heard their cases. The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed.			
N.J. State Conf.--NAACP v. Harvey	Superior Court of New Jersey, Appellate Division	381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316	November 2, 2005	The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4--1(8) on the ground that it	The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey	No	N/A	No

013654

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>denied African--Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.</p>	<p>discriminated against African-Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting.</p>			

013655

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Moreover, those convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed.			
King v. City of Boston	United States District Court for the District of Massachusetts	2004 U.S. Dist. LEXIS 8421	May 13, 2004	Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws	The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned.</p>	<p>ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violate the inmate's constitutional rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.			
Southwest Voter Registration Educ. Project v. Shelley	United States District Court for the Central District of California	278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413	August 15, 2003	Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be	Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch-card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>conducted without use of punch--card machines.</p>	<p>votes on the basis of race, in violation of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>plaintiffs could show disparate treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					plaintiffs' ex parte application for temporary restraining order) was denied.			
Igartua--de la Rosa v. United States	United States Court of Appeals for the First Circuit	417 F.3d 145; 2005 U.S. App. LEXIS 15944	August 3, 2005	Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States.	The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not, but were voting for electors. Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.</p>			

013663

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Rogelio Mejorada-Lopez	Alaska	05-CR-074	December 5, 2005	Mejorada-Lopez, a Mexican citizen, completed several voter registration applications to register to vote in Alaska and voted in the 2000, 2002, and 2004 general elections. He was charged with three counts of voting by a non-citizen in violation of 18 U.S.C. section 611 and pled guilty. Mejorada-Lopez was sentenced to probation for one year.	No	N/A	No
United States v. Shah	Colorado	1:04-CR-00458	March 1, 2005	Shah was indicted on two counts of providing false	No	N/A	No

013664

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				information concerning United States citizenship in order to register to vote in violation of 18 U.S.C. section 911 and 1015(f). Shah was convicted on both counts.			
United States v. Mohsin Ali	Northern Florida	4:05-CR-47	January 17, 2006	A misdemeanor was filed against Ali charging him with voting by a non-citizen of 18 U.S.C. section 611. Trial was set for January 17, 2006	No	N/A	Yes-need information on the outcome of the trial.
United States v. Chaudhary	Northern Florida	4:04-CR-00059	May 18, 2005	Chaudhary was indicted for misuse of a social security number in violation of 42 U.S.C. section	No	N/A	No

013665

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>408 and for making a false claim of United States citizenship on a 2002 driver's license application in violation of 18 U.S.C. section 911. A superceding indictment was returned, charging Chaudhary with falsely claiming United States citizenship on a driver's license application and on the accompanying voter registration application. He was convicted of the false citizenship claim on his voter</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				registration application.			
United States v. Velasquez	Southern Florida	1:03-CR-20233	September 9, 2003	Velasquez, a former 1996 and 1998 candidate for the Florida legislature, was indicted on charges of misrepresenting United States citizenship in connection with voting and for making false statements to the Immigration and Naturalization Service, in violation of 18 U.S.C. section 911, 1015(f) and 1001. Velasquez was convicted on two counts of making false statements on his naturalization	No	N/A	No

013667

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				application to the INS concerning his voting history.			
United States v. McKenzie; United States v. Francois; United States v. Exavier; United States v. Lloyd Palmer; United States v. Velrine Palmer; United states v. Shivdayal; United States v. Rickman; United States v. Knight; United States v. Sweeting; United States v. Lubin; United States v. Bennett; United States v. O'Neil; United	Southern Florida	0:04-CR-60160; 1:04-CR-20488; 0:04-CR-60161; 0:04-CR-60159; 0:04-CR-60162; 0:04-CR-60164; 1:04-CR-20491; 1:04-CR-20490; 1:04-CR-20489; 0:04-CR-60163; 1:04-CR-14048; 0:04-CR-60165; 2:04-CR-14046; 9:04-CR-80103; 2:04-CR-14047	July 15, 2004	Fifteen non-citizens were charged with voting in various elections beginning in 1998 in violation of 18 U.S.C. section 611. Four of the defendants were also charged with making false citizenship claims in violation of 18 U.S.C. sections 911 or 1015(f). Ten defendants were convicted, one defendant was acquitted, and charges against four	No	N/A	No

013668

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
States v. Torres-Perez; United States v. Phillip; United States v. Bain Knight				defendants were dismissed upon motion of the government.			
United States v. Brooks	Southern Illinois	3:03-CR-30201	February 12, 2004	East St. Louis election official Leander Brooks was indicted for submitting fraudulent ballots in the 2002 general election in violation of 42 U.S.C. section 1973i(c), 1973i(e), 1973gg-10(2)(B), and 18 U.S.C. sections 241 and 371. Brooks pled guilty to all charges.	No	N/A	No
United States v. Scott; United States v. Nichols; United States v.	Southern Illinois	3:05-CR-30040; 3:05-CR-30041; 3:05-CR-30042; 3:05-CR-30043; 3:05-CR-30044	June 29, 2005	Four Democrat precinct committeemen in East St. Louis were charged	No	N/A	No

013669

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Terrance Stith; United States v. Sandra Stith; United States v. Powell, et al.				with vote buying on the 2004 general election in violation of 42 U.S.C. section 1973i(c). All four pled guilty. Also indicted were four additional Democrat committeemen, Charles Powell, Jr., Jesse Lewis, Sheila Thomas, Kelvin Ellis, and one precinct worker, Yvette Johnson, on conspiracy and vote buying charges in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). All five defendants were convicted.			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Kelvin Ellis also pled guilty to one count of 18 U.S.C. section 1512(c)(2) relative to a scheme to kill one of the trial witnesses and two counts of 18 U.S.C. section 1503 relative to directing two other witnesses to refuse to testify before the grand jury.			
United States v. McIntosh	Kansas	2:04-CR-20142	December 20, 2004	A felony information was filed against lawyer Leslie McIntosh for voting in both Wyandotte County, Kansas and Jackson County, Missouri, in the	No	N/A	No

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				general elections of 2000 and 2002 in violation of 42 U.S.C. section 1973i(e). A superseding misdemeanor information was filed, charging McIntosh with causing the deprivation of constitutional rights in violation of 18 U.S.C. section 242, to which the defendant pled guilty.			
United States v. Conley; United States v. Slone; United States v. Madden; United States v. Slone et al.; United States v. Calhoun; United	Eastern Kentucky	7:03-CR-00013; 7:03-CR-00014; 7:03-CR-00015; 7:03-CR-00016; 7:03-CR-00017; 7:03-CR-00018; 7:03-CR-00019	March 28, 2003 and April 24, 2003	Ten people were indicted on vote buying charges in connection with the 1998 primary election in Knott County, Kentucky, in violation of 42	No	N/A	No

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
States v. Johnson; United States v. Newsome, et al.				U.S.C. section 1973i(c). Five of the defendants pled guilty, two were convicted, and three were acquitted.			
United States v. Hays, et al.	Eastern Kentucky	7:03-CR-00011	March 7, 2003	Ten defendants were indicted for conspiracy and vote buying for a local judge in Pike County, Kentucky, in the 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Five defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed	No	N/A	No

013673

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				upon motion of the government.			
United States v. Turner, et al.	Eastern Kentucky	3:05-CR-00002	May 5, 2005	Three defendants were indicted for vote buying and mail fraud in connection with the 2000 elections in Knott, Letcher, Floyd, and Breathitt Counties, Kentucky, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 341.	No	N/A	Yes-need update on case status.
United States v. Braud	Middle Louisiana	3:03-CR-00019	May 2, 2003	Tyrell Mathews Braud was indicted on three counts of making false declarations to a grand jury in connection with his 2002 fabrication of	No	N/A	No

013674

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				eleven voter registration applications, in violation of 18 U.S.C. section 1623. Braud pled guilty on all counts.			
United States v. Thibodeaux	Western Louisiana	6:03-CR-60055	April 12, 2005	St. Martinsville City Councilwoman Pamela C. Thibodeaux was indicted on two counts of conspiring to submit false voter registration information, in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). She pled guilty to both charges.	No	N/A	No
United States v. Scherzer;	Western Missouri	4:04-CR-00401; 4:04-CR-00402;	January 7, 2005; March	Two misdemeanor	No	N/A	No

013675

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Goodrich; United States v. Jones; United States v. Martin		4:05-CR-00257; 4:05-CR-00258	28, 2005; September 8, 2005; October 13, 2005	informations were filed charging Lorraine Goodrich and James Scherzer, Kansas residents who voted in the 2000 and 2002 general elections on both Johnson County, Kansas and in Kansas City, Missouri. The informations charged deprivation of a constitutional right by causing spurious ballots, in violation of 18 U.S.C. sections 242 and 2. Both pled guilty. Additionally, similar misdemeanor informations			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>were filed against Tammy J. Martin, who voted in both Independence and Kansas City, Missouri in the 2004 general election and Brandon E. Jones, who voted both in Raytown and Kansas City, Missouri in the 2004 general election. Both pled guilty.</p>			
<p>United States v. Raymond; United States v. McGee; United States v. Tobin; United States v. Hansen</p>	<p>New Hampshire</p>	<p>04-CR-00141; 04-CR-00146; 04-CR-00216; 04-CR-00054</p>	<p>December 15, 2005</p>	<p>Two informations were filed charging Allen Raymond, former president of a Virginia-based political consulting firm called GOP Marketplace, and</p>	<p>No</p>	<p>N/A</p>	<p>No</p>

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Charles McGee, former executive director of the New Hampshire State Republican Committee, with conspiracy to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. The charges stem from a scheme to block the phone lines used by two Manchester organizations to arrange drives to the polls during the 2002 general election. Both pled guilty.</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>James Tobin, former New England Regional Director of the Republican National Committee, was indicted on charges of conspiring to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. An information was filed charging Shaun Hansen, the principal of an Idaho telemarketing firm called</p>			

013679

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>MILO Enterprises which placed the harassing calls, with conspiracy and aiding and abetting telephone harassment, in violation of 18 U.S.C. section 371 and 2 and 47 U.S.C. section 223. The information against Hansen was dismissed upon motion of the government. A superseding indictment was returned against Tobin charging conspiracy to impede the constitutional right to vote for federal</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>candidates, in violation of 18 U.S.C. section 241 and conspiracy to make harassing telephone calls in violation of 47 U.S.C. section 223. Tobin was convicted of one count of conspiracy to commit telephone harassment and one count of aiding and abetting of telephone harassment.</p>			
United States v. Workman	Western North Carolina	1:03-CR-00038	June 30, 2003	<p>A ten-count indictment was returned charging Joshua Workman, a Canadian citizen, with voting and</p>	No	N/A	No

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>related offenses in the 200 and 2002 primary and general elections in Avery County, North Carolina, in violation of 18 U.S.C. sections 611, 911, 1001, and 1015(f). Workman pled guilty to providing false information to election officials and to a federal agency.</p>			
United States v. Shatley, et al.	Western North Carolina	5:03-CR-00035	May 14, 2004	<p>A nine-count indictment was returned charging Wayne Shatley, Anita Moore, Valerie Moore, Carlos "Sunshine" Hood and Ross "Toogie" Banner</p>	No	N/A	No

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				with conspiracy and vote buying in the Caldwell County 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Anita and Valerie Moore pled guilty. Shatley, Hood, and Banner were all convicted.			
United States v. Vargas	South Dakota	05-CR-50085	December 22, 2005	An indictment was filed against Rudolph Vargas, for voting more than once at Pine Ridge in the 2002 general election in violation of 42 U.S.C. section 1973i(e). Vargas pled guilty.	No	N/A	No
United States v.	Southern West	02-CR-00234;	July 22,	Danny Ray	No	N/A	No

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Wells; United States v. Mendez; United States v. Porter; United States v. Hrutkay; United States v. Porter; United States v. Stapleton; United States v. Thomas E. Esposito; United States v. Nagy; United States v. Adkins; United States v. Harvey	Virginia	2:04-CR-00101; 2:04-CR-00145; 2:04-CR-00149; 2:04-CR-00173; 2:05-CR-00002; 05-CR-00019; 05-CR-00148; 05-CR-00161	2003; July 19, 2004; December 7, 2004; January 7, 2005; March 21, 2005; October 11, 2005; December 13, 2005	Wells, Logan County, West Virginia, magistrate, was indicted and charged with violating 18 U.S.C. section 1962. Wells was found guilty. A felony indictment was filed against Logan County sheriff Johnny Mendez for conspiracy to defraud the United States in violation 18 U.S.C section 371. Mendez pled guilty. An information was filed charging former Logan County police chief Alvin Ray Porter, Jr., with			

013684

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>making expenditures to influence voting in violation of 18 U.S.C. section 597. Porter pled guilty. Logan County attorney Mark Oliver Hrutkay was charged by information with mail fraud in violation of 18 U.S.C. section 1341. Hrutkay pled guilty. Earnest Stapleton, commander of the local VFW, was charged by information with mail fraud. He pled guilty. An information was filed charging Thomas E.</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Esposito, a former mayor of the City of Logan, with concealing the commission of a felony, in violation of 18 U.S.C. section 4. Esposito pled guilty. John Wesley Nagy, Logan County Court marshall, pled guilty to making false statements to a federal agent, a violation of 18 U.S.C. section 1001. An information charging Glen Dale Adkins, county clerk of Logan County, with accepting payment for</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				voting, in violation of 18 U.S.C. section 1973i(c). Adkins pled guilty. Perry French Harvey, Jr., a retired UMW official, pled guilty to involvement in a conspiracy to buy votes.			
United States v. Adkins, et al.	Southern West Virginia	2:04-CR-00162	December 28 & 30, 2005	Jackie Adkins was indicted for vote buying in Lincoln County, West Virginia, in violation of 42 U.S.C. section 1973i(c). A superceding indictment added Wandell "Rocky" Adkins to the indictment and charged both defendants with conspiracy to	No	N/A	No

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>buy votes in violation of 18 U.S.C. section 371 and vote buying. A second superseding indictment was returned which added three additional defendants, Gegory Brent Stowers, Clifford Odell "Groundhog" Vance, and Toney "Zeke" Dingess, to the conspiracy and vote buying indictment. Charges were later dismissed against Jackie Adkins. A third superseding indictment was returned adding</p>			

013688

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>two additional defendants, Jerry Allen Weaver and Ralph Dale Adkins. A superseding information was filed charging Vance with expenditures to influence voting, in violation of 18 U.S.C. section 597. Vance pled guilty.</p> <p>Superseding informations were filed against Stowers and Dingess for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty. Weaver also pled guilty.</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Superseding informations were filed against Ralph and Wandell Adkins for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty.			
United States v. Davis; United States v. Byas; United States v. Ocasio; United States v. Prude; United States v. Sanders; United States v. Alicea; United States v. Brooks; United States v. Hamilton; United States v. Little; United	Eastern Wisconsin	2:05-MJ-00454; 2:05-MJ-00455; 2:05-CR-00161; 2:05-CR-00162; 2:05-CR-00163; 2:05-CR-00168; 2:05-CR-00170; 2:05-CR-00171; 2:05-CR-00172; 2:05-CR-00177; 2:05-CR-00207; 2:05-CR-00209; 2:05-CR-00211; 2:05-CR-00212	September 16, 2005; September 21, 2005; October 5, 2005; October 26, 2005; October 31, 2005, November 10, 2005	Criminal complaints were issued against Brian L. Davis and Theresa J. Byas charging them with double voting, in violation of 42 U.S.C. section 1973i(e). Indictments were filed against convicted felons Milo R. Ocasio	No	N/A	Need updated status on Gooden and the Anderson, Cox, Edwards, and Little cases.

013690

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
States v. Swift; United States v. Anderson; United States v. Cox; United States v. Edwards; United States v. Gooden				and Kimberly Prude, charging them with falsely certifying that they were eligible to vote, in violation of 42 U.S.C. section 1973gg-10(2)(B), and against Enrique C. Sanders, charging him with multiple voting, in violation of 42 U.S.C. section 1973i(e). Five more indictments were later returned charging Cynthia C. Alicea with multiple voting in violation of 42 U.S.C. section 1973i(e) and convicted felons			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Deshawn B. Brooks, Alexander T. Hamilton, Derek G. Little, and Eric L. Swift with falsely certifying that they were eligible to vote in violation of 42 U.S.C. section 1973gg-10(2)(B). Indictments were filed against Davis and Byas charging them with double voting. Four more indictments were returned charging convicted felons Ethel M. Anderson, Jiyto L. Cox, Correan F. Edwards, and Joseph J. Gooden</p>			

013692

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>with falsely certifying that they were eligible to vote. Ocasio and Hamilton pled guilty. Prude was found guilty. A mistrial was declared in the Sanders case. Brooks was acquitted. Byas signed a plea agreement agreeing to plead to a misdemeanor 18 U.S.C. section 242 charge. Swift moved to change his plea. Davis was found incompetent to stand trial so the government dismissed the case. Gooden is a</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				fugitive. Alicea was acquitted. Four cases are pending --- Anderson, Cox, Edwards, and Little.			

013694

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed.	No	N/A	No

013695

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				of the Voting Rights Act. The parties filed cross-motions for summary judgment.	schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>minorities; as a result, minorities were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.			
Farrakhan v. Washington	United States Court of Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p>	<p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p>			

013702

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim.			
Muntaqim v. Coombe	United States Court of Appeals for the Second Circuit	366 F.3d 102; 2004 U.S. App. LEXIS 8077	April 23, 2004	Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation	At issue was whether the VRA could be applied to N.Y. Elec. Law § 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the	No	N/A	No

013703

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				of § 2 of the Voting Rights Act of 1965.	New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p>			

013705

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					district court's judgment was affirmed.			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	353 F.3d 1287; 2003 U.S. App. LEXIS 25859	December 19, 2003	Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.	The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violation of federal voting laws and remanded the matter to the district court for further proceedings.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.</p>			
Johnson v. Governor of	United States Court of	405 F.3d 1214;	April 12, 2005	Plaintiff individuals sued defendant	The individuals argued that the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Fla.	Appeals for the Eleventh Circuit	2005 U.S. App. LEXIS 5945		members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.	racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial			

013712

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw.	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief as	Petitioner convicted felons were presently or had formerly been confined in state	No	N/A	No

013714

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 534		to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights.	prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners'			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing and the court overruled objection as to deprivation of ex-felon voting rights. The court sustained respondents' objection since</p>			

013716

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.			
Rosello v. Calderon	United States District Court for the District of Puerto Rico	2004 U.S. Dist. LEXIS 27216	November 30, 2004	Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the invalidity of	The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the	No	N/A	No

013717

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				absentee and split ballots in a gubernatorial election.	same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>constitutions. The court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					pursuant to federal guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.			
Woodruff v. Wyoming	United States Court of Appeals for the Tenth Circuit	49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060	October 7, 2002	Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10--106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon	The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing	No	N/A	No

013720

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>which relief could be granted and as frivolous.</p>	<p>fee or filed a motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					heard their cases. The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed.			
N.J. State Conf.--NAACP v. Harvey	Superior Court of New Jersey, Appellate Division	381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316	November 2, 2005	The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4--1(8) on the ground that it	The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>denied African--Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.</p>	<p>discriminated against African-Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Moreover, those convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed.			
King v. City of Boston	United States District Court for the District of Massachusetts	2004 U.S. Dist. LEXIS 8421	May 13, 2004	Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws	The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the	No	N/A	No

013724

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned.</p>	<p>ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because</p>			

013725

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violate the inmate's constitutional rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.			
Southwest Voter Registration Educ. Project v. Shelley	United States District Court for the Central District of California	278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413	August 15, 2003	Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be	Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch-card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the	No	N/A	No

013727

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				conducted without use of punch--card machines.	votes on the basis of race, in violation of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>plaintiffs could show disparate treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with</p>			

013729

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					plaintiffs' ex parte application for temporary restraining order) was denied.			
Igartua--de la Rosa v. United States	United States Court of Appeals for the First Circuit	417 F.3d 145; 2005 U.S. App. LEXIS 15944	August 3, 2005	Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States.	The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not, but were voting for electors. Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Rogelio Mejorada-Lopez	Alaska	05-CR-074	December 5, 2005	Mejorada-Lopez, a Mexican citizen, completed several voter registration applications to register to vote in Alaska and voted in the 2000, 2002, and 2004 general elections. He was charged with three counts of voting by a non-citizen in violation of 18 U.S.C. section 611 and pled guilty. Mejorada-Lopez was sentenced to probation for one year.	No	N/A	No
United States v. Shah	Colorado	1:04-CR-00458	March 1, 2005	Shah was indicted on two counts of providing false	No	N/A	No

013732

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				information concerning United States citizenship in order to register to vote in violation of 18 U.S.C. section 911 and 1015(f). Shah was convicted on both counts.			
United States v. Mohsin Ali	Northern Florida	4:05-CR-47	January 17, 2006	A misdemeanor was filed against Ali charging him with voting by a non-citizen of 18 U.S.C. section 611. Trial was set for January 17, 2006	No	N/A	Yes-need information on the outcome of the trial.
United States v. Chaudhary	Northern Florida	4:04-CR-00059	May 18, 2005	Chaudhary was indicted for misuse of a social security number in violation of 42 U.S.C. section	No	N/A	No

013733

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>408 and for making a false claim of United States citizenship on a 2002 driver's license application in violation of 18 U.S.C. section 911. A superceding indictment was returned, charging Chaudhary with falsely claiming United States citizenship on a driver's license application and on the accompanying voter registration application. He was convicted of the false citizenship claim on his voter</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				registration application.			
United States v. Velasquez	Southern Florida	1:03-CR-20233	September 9, 2003	Velasquez, a former 1996 and 1998 candidate for the Florida legislature, was indicted on charges of misrepresenting United States citizenship in connection with voting and for making false statements to the Immigration and Naturalization Service, in violation of 18 U.S.C. section 911, 1015(f) and 1001. Velasquez was convicted on two counts of making false statements on his naturalization	No	N/A	No

013735

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				application to the INS concerning his voting history.			
United States v. McKenzie; United States v. Francois; United States v. Exavier; United States v. Lloyd Palmer; United States v. Velrine Palmer; United states v. Shivdayal; United States v. Rickman; United States v. Knight; United States v. Sweeting; United States v. Lubin; United States v. Bennett; United States v. O'Neil; United	Southern Florida	0:04-CR-60160; 1:04-CR-20488; 0:04-CR-60161; 0:04-CR-60159; 0:04-CR-60162; 0:04-CR-60164; 1:04-CR-20491; 1:04-CR-20490; 1:04-CR-20489; 0:04-CR-60163; 1:04-CR-14048; 0:04-CR-60165; 2:04-CR-14046; 9:04-CR-80103; 2:04-CR-14047	July 15, 2004	Fifteen non-citizens were charged with voting in various elections beginning in 1998 in violation of 18 U.S.C. section 611. Four of the defendants were also charged with making false citizenship claims in violation of 18 U.S.C. sections 911 or 1015(f). Ten defendants were convicted, one defendant was acquitted, and charges against four	No	N/A	No

013738

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
States v. Torres-Perez; United States v. Phillip; United States v. Bain Knight				defendants were dismissed upon motion of the government.			
United States v. Brooks	Southern Illinois	3:03-CR-30201	February 12, 2004	East St. Louis election official Leander Brooks was indicted for submitting fraudulent ballots in the 2002 general election in violation of 42 U.S.C. section 1973i(c), 1973i(e), 1973gg-10(2)(B), and 18 U.S.C. sections 241 and 371. Brooks pled guilty to all charges.	No	N/A	No
United States v. Scott; United States v. Nichols; United States v.	Southern Illinois	3:05-CR-30040; 3:05-CR-30041; 3:05-CR-30042; 3:05-CR-30043; 3:05-CR-30044	June 29, 2005	Four Democrat precinct committeemen in East St. Louis were charged	No	N/A	No

013737

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Terrance Stith; United States v. Sandra Stith; United States v. Powell, et al.				with vote buying on the 2004 general election in violation of 42 U.S.C. section 1973i(c). All four pled guilty. Also indicted were four additional Democrat committeemen, Charles Powell, Jr., Jesse Lewis, Sheila Thomas, Kelvin Ellis, and one precinct worker, Yvette Johnson, on conspiracy and vote buying charges in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). All five defendants were convicted.			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Kelvin Ellis also pled guilty to one count of 18 U.S.C. section 1512(c)(2) relative to a scheme to kill one of the trial witnesses and two counts of 18 U.S.C. section 1503 relative to directing two other witnesses to refuse to testify before the grand jury.			
United States v. McIntosh	Kansas	2:04-CR-20142	December 20, 2004	A felony information was filed against lawyer Leslie McIntosh for voting in both Wyandotte County, Kansas and Jackson County, Missouri, in the	No	N/A	No

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				general elections of 2000 and 2002 in violation of 42 U.S.C. section 1973i(e). A superseding misdemeanor information was filed, charging McIntosh with causing the deprivation of constitutional rights in violation of 18 U.S.C. section 242, to which the defendant pled guilty.			
United States v. Conley; United States v. Slone; United States v. Madden; United States v. Slone et al.; United States v. Calhoun; United	Eastern Kentucky	7:03-CR-00013; 7:03-CR-00014; 7:03-CR-00015; 7:03-CR-00016; 7:03-CR-00017; 7:03-CR-00018; 7:03-CR-00019	March 28, 2003 and April 24, 2003	Ten people were indicted on vote buying charges in connection with the 1998 primary election in Knott County, Kentucky, in violation of 42	No	N/A	No

013740

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
States v. Johnson; United States v. Newsome, et al.				U.S.C. section 1973i(c). Five of the defendants pled guilty, two were convicted, and three were acquitted.			
United States v. Hays, et al.	Eastern Kentucky	7:03-CR-00011	March 7, 2003	Ten defendants were indicted for conspiracy and vote buying for a local judge in Pike County, Kentucky, in the 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Five defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed	No	N/A	No

013741

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				upon motion of the government.			
United States v. Turner, et al.	Eastern Kentucky	3:05-CR-00002	May 5, 2005	Three defendants were indicted for vote buying and mail fraud in connection with the 2000 elections in Knott, Letcher, Floyd, and Breathitt Counties, Kentucky, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 341.	No	N/A	Yes-need update on case status.
United States v. Braud	Middle Louisiana	3:03-CR-00019	May 2, 2003	Tyrell Mathews Braud was indicted on three counts of making false declarations to a grand jury in connection with his 2002 fabrication of	No	N/A	No

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				eleven voter registration applications, in violation of 18 U.S.C. section 1623. Braud pled guilty on all counts.			
United States v. Thibodeaux	Western Louisiana	6:03-CR-60055	April 12, 2005	St. Martinsville City Councilwoman Pamela C. Thibodeaux was indicted on two counts of conspiring to submit false voter registration information, in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). She pled guilty to both charges.	No	N/A	No
United States v. Scherzer;	Western Missouri	4:04-CR-00401; 4:04-CR-00402;	January 7, 2005; March	Two misdemeanor	No	N/A	No

013743

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Goodrich; United States v. Jones; United States v. Martin		4:05-CR-00257; 4:05-CR-00258	28, 2005; September 8, 2005; October 13, 2005	informations were filed charging Lorraine Goodrich and James Scherzer, Kansas residents who voted in the 2000 and 2002 general elections on both Johnson County, Kansas and in Kansas City, Missouri. The informations charged deprivation of a constitutional right by causing spurious ballots, in violation of 18 U.S.C. sections 242 and 2. Both pled guilty. Additionally, similar misdemeanor informations			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>were filed against Tammy J. Martin, who voted in both Independence and Kansas City, Missouri in the 2004 general election and Brandon E. Jones, who voted both in Raytown and Kansas City, Missouri in the 2004 general election. Both pled guilty.</p>			
<p>United States v. Raymond; United States v. McGee; United States v. Tobin; United States v. Hansen</p>	<p>New Hampshire</p>	<p>04-CR-00141; 04-CR-00146; 04-CR-00216; 04-CR-00054</p>	<p>December 15, 2005</p>	<p>Two informations were filed charging Allen Raymond, former president of a Virginia-based political consulting firm called GOP Marketplace, and</p>	<p>No</p>	<p>N/A</p>	<p>No</p>

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Charles McGee, former executive director of the New Hampshire State Republican Committee, with conspiracy to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. The charges stem from a scheme to block the phone lines used by two Manchester organizations to arrange drives to the polls during the 2002 general election. Both pled guilty.</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>James Tobin, former New England Regional Director of the Republican National Committee, was indicted on charges of conspiring to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. An information was filed charging Shaun Hansen, the principal of an Idaho telemarketing firm called</p>			

013747

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>MILO Enterprises which placed the harassing calls, with conspiracy and aiding and abetting telephone harassment, in violation of 18 U.S.C. section 371 and 2 and 47 U.S.C. section 223. The information against Hansen was dismissed upon motion of the government. A superseding indictment was returned against Tobin charging conspiracy to impede the constitutional right to vote for federal</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>candidates, in violation of 18 U.S.C. section 241 and conspiracy to make harassing telephone calls in violation of 47 U.S.C. section 223. Tobin was convicted of one count of conspiracy to commit telephone harassment and one count of aiding and abetting of telephone harassment.</p>			
United States v. Workman	Western North Carolina	1:03-CR-00038	June 30, 2003	<p>A ten-count indictment was returned charging Joshua Workman, a Canadian citizen, with voting and</p>	No	N/A	No

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>related offenses in the 200 and 2002 primary and general elections in Avery County, North Carolina, in violation of 18 U.S.C. sections 611, 911, 1001, and 1015(f). Workman pled guilty to providing false information to election officials and to a federal agency.</p>			
United States v. Shatley, et al.	Western North Carolina	5:03-CR-00035	May 14, 2004	<p>A nine-count indictment was returned charging Wayne Shatley, Anita Moore, Valerie Moore, Carlos "Sunshine" Hood and Ross "Toogie" Banner</p>	No	N/A	No

013750

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				with conspiracy and vote buying in the Caldwell County 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Anita and Valerie Moore pled guilty. Shatley, Hood, and Banner were all convicted.			
United States v. Vargas	South Dakota	05-CR-50085	December 22, 2005	An indictment was filed against Rudolph Vargas, for voting more than once at Pine Ridge in the 2002 general election in violation of 42 U.S.C. section 1973i(e). Vargas pled guilty.	No	N/A	No
United States v.	Southern West	02-CR-00234;	July 22,	Danny Ray	No	N/A	No

013751

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Wells; United States v. Mendez; United States v. Porter; United States v. Hrutkay; United States v. Porter; United States v. Stapleton; United States v. Thomas E. Esposito; United States v. Nagy; United States v. Adkins; United States v. Harvey	Virginia	2:04-CR-00101; 2:04-CR-00145; 2:04-CR-00149; 2:04-CR-00173; 2:05-CR-00002; 05-CR-00019; 05-CR-00148; 05-CR-00161	2003; July 19, 2004; December 7, 2004; January 7, 2005; March 21, 2005; October 11, 2005; December 13, 2005	Wells, Logan County, West Virginia, magistrate, was indicted and charged with violating 18 U.S.C. section 1962. Wells was found guilty. A felony indictment was filed against Logan County sheriff Johnny Mendez for conspiracy to defraud the United States in violation 18 U.S.C section 371. Mendez pled guilty. An information was filed charging former Logan County police chief Alvin Ray Porter, Jr., with			

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>making expenditures to influence voting in violation of 18 U.S.C. section 597. Porter pled guilty. Logan County attorney Mark Oliver Hrutkay was charged by information with mail fraud in violation of 18 U.S.C. section 1341. Hrutkay pled guilty. Earnest Stapleton, commander of the local VFW, was charged by information with mail fraud. He pled guilty. An information was filed charging Thomas E.</p>			

013753

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Esposito, a former mayor of the City of Logan, with concealing the commission of a felony, in violation of 18 U.S.C. section 4. Esposito pled guilty. John Wesley Nagy, Logan County Court marshall, pled guilty to making false statements to a federal agent, a violation of 18 U.S.C. section 1001. An information charging Glen Dale Adkins, county clerk of Logan County, with accepting payment for</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				voting, in violation of 18 U.S.C. section 1973i(c). Adkins pled guilty. Perry French Harvey, Jr., a retired UMW official, pled guilty to involvement in a conspiracy to buy votes.			
United States v. Adkins, et al.	Southern West Virginia	2:04-CR-00162	December 28 & 30, 2005	Jackie Adkins was indicted for vote buying in Lincoln County, West Virginia, in violation of 42 U.S.C. section 1973i(c). A superceding indictment added Wandell "Rocky" Adkins to the indictment and charged both defendants with conspiracy to	No	N/A	No

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>buy votes in violation of 18 U.S.C. section 371 and vote buying. A second superseding indictment was returned which added three additional defendants, Gegory Brent Stowers, Clifford Odell "Groundhog" Vance, and Toney "Zeke" Dingess, to the conspiracy and vote buying indictment. Charges were later dismissed against Jackie Adkins. A third superseding indictment was returned adding</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>two additional defendants, Jerry Allen Weaver and Ralph Dale Adkins. A superseding information was filed charging Vance with expenditures to influence voting, in violation of 18 U.S.C. section 597. Vance pled guilty. Superseding informations were filed against Stowers and Dingess for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty. Weaver also pled guilty.</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Superseding informations were filed against Ralph and Wandell Adkins for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty.			
United States v. Davis; United States v. Byas; United States v. Ocasio; United States v. Prude; United States v. Sanders; United States v. Alicea; United States v. Brooks; United States v. Hamilton; United States v. Little; United	Eastern Wisconsin	2:05-MJ-00454; 2:05-MJ-00455; 2:05-CR-00161; 2:05-CR-00162; 2:05-CR-00163; 2:05-CR-00168; 2:05-CR-00170; 2:05-CR-00171; 2:05-CR-00172; 2:05-CR-00177; 2:05-CR-00207; 2:05-CR-00209; 2:05-CR-00211; 2:05-CR-00212	September 16, 2005; September 21, 2005; October 5, 2005; October 26, 2005; October 31, 2005, November 10, 2005	Criminal complaints were issued against Brian L. Davis and Theresa J. Byas charging them with double voting, in violation of 42 U.S.C. section 1973i(e). Indictments were filed against convicted felons Milo R. Ocasio	No	N/A	Need updated status on Gooden and the Anderson, Cox, Edwards, and Little cases.

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
States v. Swift; United States v. Anderson; United States v. Cox; United States v. Edwards; United States v. Gooden				and Kimberly Prude, charging them with falsely certifying that they were eligible to vote, in violation of 42 U.S.C. section 1973gg-10(2)(B), and against Enrique C. Sanders, charging him with multiple voting, in violation of 42 U.S.C. section 1973i(e). Five more indictments were later returned charging Cynthia C. Alicea with multiple voting in violation of 42 U.S.C. section 1973i(e) and convicted felons			

013759

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Deshawn B. Brooks, Alexander T. Hamilton, Derek G. Little, and Eric L. Swift with falsely certifying that they were eligible to vote in violation of 42 U.S.C. section 1973gg-10(2)(B). Indictments were filed against Davis and Byas charging them with double voting. Four more indictments were returned charging convicted felons Ethel M. Anderson, Jiyto L. Cox, Correan F. Edwards, and Joseph J. Gooden</p>			

013760

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>with falsely certifying that they were eligible to vote. Ocasio and Hamilton pled guilty. Prude was found guilty. A mistrial was declared in the Sanders case. Brooks was acquitted. Byas signed a plea agreement agreeing to plead to a misdemeanor 18 U.S.C. section 242 charge. Swift moved to change his plea. Davis was found incompetent to stand trial so the government dismissed the case. Gooden is a</p>			

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				fugitive. Alicea was acquitted. Four cases are pending --- Anderson, Cox, Edwards, and Little.			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be	No	N/A	No

Name of Case.	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				the alternative, a preliminary injunction.	deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible.			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied.			
Am. Ass'n of People with Disabilities v. Hood	United States District Court for the Middle District of Florida	310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615	March 24, 2004	Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida	The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p>	<p>voters. The voters were unable to vote using the system without third--party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non--</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>disabled voters. Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>system would have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					voters.			
Troiano v. Lepore	United States District Court for the Southern District of Florida	2003 U.S. Dist. LEXIS 25850	November 3, 2003	Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary	The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				judgment.	things down too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>failed to state an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					audio components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.			
Troiano v. Supervisor of Elections	United States Court of Appeals for the Eleventh Circuit	382 F.3d 1276; 2004 U.S. App. LEXIS 18497	September 1, 2004	Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in	The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>voting booths to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p>	<p>appellate court agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>components prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the</p>			

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					accessible voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed.			
Am. Ass'n of People with Disabilities v. Smith	United States District Court for the Middle District of Florida	227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373	October 16, 2002	Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state	Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>and local election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p>	<p>order to vote, the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined</p>			

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					<p>with the federal claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court could not say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>asserted that they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				the alternative, a preliminary injunction.	deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible.			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied.			
Am. Ass'n of People with Disabilities v. Hood	United States District Court for the Middle District of Florida	310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615	March 24, 2004	Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida	The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p>	<p>voters. The voters were unable to vote using the system without third-party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non--</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>disabled voters. Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>system would have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					voters.			
Troiano v. Lepore	United States District Court for the Southern District of Florida	2003 U.S. Dist. LEXIS 25850	November 3, 2003	Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary	The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow	No	N/A	No

013789

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				judgment.	things down too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>failed to state an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					audio components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.			
Troiano v. Supervisor of Elections	United States Court of Appeals for the Eleventh Circuit	382 F.3d 1276; 2004 U.S. App. LEXIS 18497	September 1, 2004	Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in	The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The	No	N/A	No

Deliberative Process Privilege

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>voting booths to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p>	<p>appellate court agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio</p>			

013793

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>components prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the</p>			

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					accessible voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed.			
Am. Ass'n of People with Disabilities v. Smith	United States District Court for the Middle District of Florida	227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373	October 16, 2002	Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state	Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>and local election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p>	<p>order to vote, the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined</p>			

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					<p>with the federal claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the</p>			

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					<p>court could not say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs</p>			

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					<p>asserted that they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.</p>			

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Jenkins v. Williamson-Butler	Court of Appeal of Louisiana, Fourth Circuit	883 So. 2d 537; 2004 La. App. LEXIS 2433	October 8, 2004	Petitioner, a candidate for a parish juvenile court judgeship, failed to qualify for a runoff election. She filed suit against defendant, the clerk of criminal court for the parish seeking a new election, based on grounds of substantial irregularities. The district court ruled in favor of the candidate	The trial court found that the voting machines were not put into service until two, four, and, in many instances, eight hours after the statutorily mandated starting hour which constituted serious irregularities so as to deprive voters from freely expressing their will. It was impossible to determine the number of voters that were affected by the	No	N/A	No

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				and ordered the holding of a restricted citywide election. The clerk appealed.	late start up or late arrival of voting machines, making it impossible to determine the result. The appellate court agreed that the irregularities were so serious that the trial court's voiding the election and calling a new election was the proper remedy. Judgment affirmed.			
Hester v. McKeithen	Court of Appeal of Louisiana, Fourth Circuit	882 So. 2d 1291; 2004 La. App. LEXIS 2429	October 8, 2004	Petitioner, school board candidate, filed suit against defendants, Louisiana	The candidate argued that the trial court erred in not setting aside the election, even after	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Secretary of State and district court clerk, contesting the school board election results. The trial court rendered judgment against the candidate, finding no basis for the election to be declared void. The candidate appealed.	acknowledging in its reasons for judgment numerous irregularities with the election process. The appellate court ruled that had the irregularities not occurred the outcome would have been exactly the same. Judgment affirmed.			
In re Election Contest of Democratic Primary Election	Supreme Court of Ohio	88 Ohio St. 3d 258; 2000 Ohio 325; 725 N.E.2d 271; 2000 Ohio	March 29, 2000	Appellant sought review of the judgment of the court of common	Appellant contended that an election irregularity occurred when the board failed	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Held May 4, 1999		LEXIS 607		pleas denying his election contest challenging an opponent's nomination for election irregularity.	to meet and act by majority vote on another candidate's withdrawal, instead permitting its employees to make decisions. Appellant had to prove by clear and convincing evidence that one or more election irregularities occurred and it affected enough votes to change or make uncertain the result of the election. Judgment affirmed. The appellant did			

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					not establish election irregularity by the board's actions on the candidate's withdrawal, the board acted diligently and exercised its discretion in keeping the candidate's name on the ballot and notifying electors of his withdrawal.			
In re Election Contest As to Watertown Special Referendum Election	Supreme Court of South Dakota	2001 SD 62; 628 N.W.2d 336; 2001 S.D. LEXIS 66	May 23, 2001	Appellant sought review of the judgment of the circuit court declaring a local election valid and	The burden was on appellants to show not only that voting irregularities occurred, but also show that those irregularities	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				declining to order a new election.	were so egregious that the will of the voters was suppressed. Appellants did not meet their burden, as mere inconvenience or delay in voting was not enough to overturn the election. Judgment affirmed.			
Jones v. Jessup	Supreme Court of Georgia	279 Ga. 531; 615 S.E.2d 529; 2005 Ga. LEXIS 447	June 30, 2005	Defendant incumbent appealed a judgment by the trial court that invalidated an election for the position of sheriff and	After the candidate lost the sheriff's election to the incumbent, he contested the election, asserting that there were sufficient irregularities to	No	N/A	No

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				<p>ordered that a new election be held based on plaintiff candidate's election contest.</p>	<p>place in doubt the election results. The state supreme court held that the candidate failed to prove substantial error in the votes cast by the witnesses adduced at the hearing who voted at the election. Although the candidate's evidence reflected the presence of some irregularities, not every irregularity invalidated the vote. The absentee ballots</p>			

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					<p>were only to be rejected where the electors failed to furnish required information. Because the ballots cast by the witnesses substantially complied with all of the essential requirements of the form, the trial court erred by finding that they should not have been considered. The candidate failed to establish substantial error in the votes. Judgment reversed.</p>			

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Toliver v. Thompson	Supreme Court of Oklahoma	2000 OK 98; 17 P.3d 464; 2000 Okla. LEXIS 101	December 21, 2000	Petitioner challenged an order of the district court denying his motion to compel a recount of votes from an election.	The court held a recount of votes cast in an election could occur when the ballots had been preserved in the manner prescribed by statute. The trial court noted when the ballots had not been preserved in such a manner, no recount would be conducted. The court further noted a petition alleging irregularities in an election could be based upon an allegation that	No	N/A	No

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					<p>it was impossible to determine with mathematical certainty which candidate was entitled to be issued a certificate of election. The Oklahoma supreme court held petitioner failed to show that the actual votes counted in the election were tainted with irregularity, and similarly failed to show a statutory right to a new election based upon a failure to preserve the</p>			

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					ballots. Judgment affirmed.			
Adkins v. Huckabay	Supreme Court of Louisiana	755 So. 2d 206; 2000 La. LEXIS 504	February 25, 2000	Plaintiff candidate challenged judgment of court of appeal, second circuit, which reversed the lower court's judgment and declared defendant candidate winner of a runoff election for sheriff.	The issue presented for the appellate court's determination was whether the absentee voting irregularities plaintiff candidate complained of rendered it impossible to determine the outcome of the election for sheriff. The Louisiana supreme court concluded that the lower court had applied the correct	No	N/A	No

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					<p>standard, substantial compliance, to the election irregularities, but had erred in its application by concluding that the contested absentee ballots substantially complied with the statutory requirements. The supreme court found that in applying substantial compliance to five of the ballot irregularities, the trial court correctly vacated the general election</p>			

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					<p>and set it aside because those absentee ballots should have been disqualified. Because of the constitutional guarantee to secrecy of the ballot and the fact that the margin of victory in the runoff election was three votes, it was impossible to determine the result of the runoff election. Thus, the supreme court ordered a new general election.</p> <p>Judgment of the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court of appeals reversed.			
In re Gray--Sadler	Supreme Court of New Jersey	164 N.J. 468; 753 A.2d 1101; 2000 N.J. LEXIS 668	June 30, 2000	Appellants, write--in candidates for the offices of mayor and borough council, appealed the judgment of the superior court, appellate division reversing the trial court's decision to set aside the election results for those offices due to irregularities related to the write--in	The New Jersey supreme court held that the votes that were rejected by election officials did not result from the voters' own errors, but from the election officials' noncompliance with statutory requirements. In other words, the voters were provided with patently inadequate instructions and defective voting machines. Moreover,	No	N/A	No

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				instructions and defective voting machines.	appellants met the statutory requirement for successfully contesting the election results by showing that enough qualified voters were denied the right to cast write--in votes as to affect the outcome of the election. Judgment reversed and the state trial court's decision reinstated.			
Goodwin v. St. Thomas-St. John Bd. of Elections	Territorial Court of the Virgin Islands	43 V.I. 89; 2000 V.I. LEXIS 15	December 13, 2000	Plaintiff political candidate alleged that certain general election	Plaintiff alleged that defendants counted unlawful absentee ballots that lacked postmarks,	No	N/A	No

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				<p>absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the</p>	<p>were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The territorial court held that plaintiff was not entitled to relief since he failed to</p>			

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				election results tabulated without such ballots.	establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly			

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					<p>counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were</p>			

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Johnson v. Lopez-- Torres	Supreme Court of New York, Appellate Division, Second Department	2005 NY Slip Op 7825; 2005 N.Y. App. Div. LEXIS 11276	October 21, 2005	In a proceeding for a re-- canvass of certain affidavit ballots cast in the Democratic Party primary election for the public office of surrogate, the supreme court denied appellant candidate's petition requesting the same and declared appellee opponent the winner of	proper. Finding that the candidate had waived her right to challenge the affidavit ballots and had not sufficiently established her claim of irregularities to warrant a hearing, the trial court denied her petition and declared the opponent the winner of the primary. However, on appeal, the appellate division held that no waiver occurred.			

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				that election.	Moreover, because hundreds of apparently otherwise eligible voters failed to fill in their party enrollment and/or prior address, it could be reasonably inferred that these voters were misled thereby into omitting the required information. Finally, the candidate failed to make a sufficient showing of voting irregularities in			

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					the machine vote to require a hearing on that issue. Judgment reversed.			
Ex parte Avery	Supreme Court of Alabama	843 So. 2d 137; 2002 Ala. LEXIS 239	August 23, 2002	Petitioner probate judge moved for a writ of mandamus directing a circuit judge to vacate his order requiring the probate judge to transfer all election materials to the circuit clerk and holding him in contempt for failing to do so. The	The issuance of a writ of mandamus was appropriate. The district attorney had a right to the election materials because he was conducting a criminal investigation of the last election. Furthermore, the circuit judge had no jurisdiction or authority to issue an order	No	N/A	No

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				probate judge also requested that said material be turned over to the district attorney, pursuant to an outstanding subpoena.	directing that the election materials be given to the clerk. The district attorney received several claims of irregularities in the election, some of which could constitute voter fraud. Petition granted and writ issued.			
Harpole v. Kemper County Democratic Exec. Comm.	Supreme Court of Mississippi	908 So. 2d 129; 2005 Miss. LEXIS 463	August 4, 2005	After his loss in a primary election for the office of sheriff, appellant candidate sued appellees, a political party's executive	The candidate alleged the sheriff had his deputies transport prisoners to the polls, felons voted, and the absentee voter law was breached. The committee	No	N/A	No

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				<p>committee and the incumbent sheriff, alleging irregularities in the election. The circuit court dismissed the candidate's petition for judicial review with prejudice. He appealed.</p>	<p>agreed with the last contention and threw out the absentee ballots (seven percent of votes cast); after a recount, the sheriff still prevailed. The trial court dismissed the case due to alleged defects in the petition; in the alternative, it held that the candidate failed to sufficiently allege violations and irregularities in the election. The supreme court held that the petition was</p>			

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					<p>not defective. Disqualification of seven percent of the total votes was not substantial enough so as to cause the will of the voters to be impossible to discern and to warrant a special election, and there were not enough illegal votes cast for the sheriff to change the outcome. A blanket allegation implying that the sheriff had deputies transport prisoners to the</p>			

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					polls was not supported by credible evidence. Judgment affirmed.			

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United States v. Madden	United States Court of Appeals for the Sixth Circuit	403 F.3d 347; 2005 U.S. App. LEXIS 5326	April 4, 2005	Defendant appealed his conviction for violating the federal vote--buying statute. He also appealed the sentence imposed by the United States District Court for the Eastern District of Kentucky at Pikeville. The district court applied the U.S. Sentencing Guidelines Manual (Guidelines) § 3B1.1(c) supervisory--role enhancement and increased defendant's base offense level by	Defendant paid three people to vote for a local candidate in a primary election. The same ballot contained candidates for the U.S. Senate. While he waived his right to appeal his conviction, he nonetheless asserted two arguments in seeking to avoid the waiver. He first posited that the vote buying statute prohibited only buying votes for federal candidates----a prohibition not violated by his conduct. In the alternative, he	No	N/A	No

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				two levels.	<p>stated if the statute did criminalize buying votes for state or local candidates, then the statute was unconstitutional. Both arguments failed. Defendant argued that applying the supervisory--role enhancement constituted impermissible double counting because the supervision he exercised was no more than necessary to establish a vote--buying offense. That argument also failed. Defendant next</p>			

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					<p>argued that the district court erred by applying the vulnerable--victim enhancement under U.S. Sentencing Guidelines Manual § 3A1.1(b)(1). He acknowledged that he knew the mentally ill people who sold their votes were vulnerable, but maintained they were not victims because they received \$50 for their votes. The vote sellers were not victims for Guidelines purposes. The district court erred. Defendant's</p>			

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					appeal of conviction was dismissed. Defendant's sentence was vacated, and the case was remanded for resentencing.			
United States v. Slone	United States Court of Appeals for the Sixth Circuit	411 F.3d 643; 2005 U.S. App. LEXIS 10137	June 3, 2005	Defendant pled guilty to vote buying in a federal election. The United States District Court for the Eastern District of Kentucky sentenced defendant to 10 months in custody and recommended that the sentence be served at an institution that could	Defendant offered to pay voters for voting in a primary election. Defendant claimed that the vote buying statute did not apply to him because his conduct related solely to a candidate for a county office. Alternatively, defendant asserted that the statute was	No	N/A	No

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				<p>accommodate defendant's medical needs. Defendant appealed his conviction and sentence.</p>	<p>unconstitutional because it exceeded Congress' enumerated powers. Finally, defendant argued that the district court erred when it failed to consider his medical condition as a ground for a downward departure at sentencing. The appellate court found that the vote buying statute applied to all elections in which a federal candidate was on the ballot, and the government need not prove that defendant</p>			

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					<p>intended to affect the federal component of the election by his corrupt practices. The facts admitted by defendant at his guilty-plea hearing established all of the essential elements of an offense. The Elections Clause and the Necessary and Proper Clause combined to provide Congress with the power to regulate mixed federal and state elections even when federal candidates were running unopposed. There was no error in</p>			

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					the district court's decision on departure under U.S. Sentencing Guidelines Manual § 5H1.4. Defendant's conviction and sentence were affirmed.			
United States v. Smith	United States Court of Appeals for the Sixth Circuit	139 Fed. Appx. 681; 2005 U.S. App. LEXIS 14855	July 18, 2005	Defendants were convicted of vote buying and conspiracy to buy votes. The United States District Court for the Eastern District of Kentucky entered judgment on the jury verdict and sentenced defendants. Defendants appealed.	One of the defendants was a state representative who decided to run for an elected position. Defendants worked together and with others to buy votes. During defendants' trial, in addition to testimony regarding vote buying, evidence was introduced	No	N/A	No

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					<p>that two witnesses had been threatened. The appellate court found that defendants failed to show evidence of prejudice with regard to denial of the motion for severance. Threat evidence was not excludable under Fed. R. Evid. 404(b) because it was admissible to show consciousness of guilt without any inference as to the character of defendants. Admission of witnesses' testimony was proper because each witness</p>			

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					<p>testified that he or she was approached by a member of the conspiracy and offered money for his or her vote. The remaining incarcerated defendant's challenges to his sentence had merit because individuals who sold their votes were not "victims" for the purposes of U.S. Sentencing Guidelines Manual § 3 A1.1. Furthermore, application of U.S. Sentencing Guidelines Manual § 3B1.1(b) violated</p>			

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					defendant's Sixth Amendment rights because it was based on facts that defendant did not admit or proved to the jury beyond a reasonable doubt. Defendants' convictions were affirmed. The remaining incarcerated defendant's sentence was vacated and his case was remanded for resentencing in accordance with Booker.			
Nugent v. Phelps	Court of Appeal of Louisiana, Second Circuit	816 So. 2d 349; 2002 La. App. LEXIS 1138	April 23, 2002	Plaintiff incumbent police chief sued defendant challenger, the	The incumbent argued that: (1) the number of persons who were bribed for their	No	N/A	No

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				<p>winning candidate, to have the election nullified and a new election held based on numerous irregularities and unlawful activities by the challenger and his supporters. The challenger won the election by a margin of four votes. At the end of the incumbent's case, the district court for the dismissed his suit. The incumbent appealed.</p>	<p>votes by the challenger's worker was sufficient to change the outcome of the election; (2) the trial judge failed to inform potential witnesses that they could be given immunity from prosecution for bribery of voters if they came forth with truthful testimony; (3) the votes of three of his ardent supporters should have been counted because they were incarcerated for the sole purpose of keeping them</p>			

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					<p>from campaigning and voting; and (4) the district attorney, a strong supporter of the challenger, abused his power when he subpoenaed the incumbent to appear before the grand jury a week preceding the election. The appellate court held no more than two votes would be subtracted, a difference that would be insufficient to change the election result or make it impossible to determine. The appellate court found the trial</p>			

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					<p>judge read the immunity portion of the statute to the potential witnesses. The appellate court found the arrests of the three supporters were the result of grand jury indictments, and there was no manifest error in holding that the incumbent failed to prove a scheme by the district attorney. The judgment of the trial court was affirmed.</p>			
Eason v. State	Court of Appeals of Mississippi	2005 Miss. App. LEXIS 1017	December 13, 2005	Defendant appealed a decision of circuit court convicting him of one count of	Defendant was helping with his cousin's campaign in a run--off election for county supervisor.	No	N/A	No

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				<p>conspiracy to commit voter fraud and eight counts of voter fraud.</p>	<p>Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant would drive the voters to the clerk's office where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it</p>			

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					<p>was precluded from reviewing the entire context in which the argument arose because, while the prosecutor's closing argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Furthermore, the trial judge did not abuse his</p>			

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					discretion when he did not allow defendant to ask the individual whether she wanted to see defendant go to prison because the individual's potential bias was shown by the individual's testimony that she expected the prosecution to recommend her sentence. The court affirmed defendant's conviction.			
United States v. Turner	United States District Court for the Eastern District of Kentucky	2005 U.S. Dist. LEXIS 31709	November 30, 2005	Defendants were charged with committing mail fraud and conspiracy to commit mail fraud and vote--	Defendants argued that recusal was mandated by 28 U.S.C.S. § 455(a) and (b)(1). The court found no	No	N/A	No

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				<p>buying. First defendant filed a motion to recuse. Second defendant's motion to join the motion to recuse was granted. First defendant moved to compel the Government to grant testimonial use immunity to second defendant and moved to sever defendants.</p>	<p>merit in defendants' arguments. The fact that the judge's husband was the commissioner of the Kentucky Department of Environmental Protection, a position to which he was appointed by the Republican Governor, was not relevant. The judge's husband was neither a party nor a witness. The court further concluded that no reasonable person could find that the judge's spouse had any direct interest in the instant action.</p>			

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					<p>As for issue of money donated by the judge's husband to Republican opponents of first defendant, the court could not discern any reason why such facts warranted recusal. First defendant asserted that second defendant should have been granted use immunity based on a belief that second defendant would testify that first defendant did not agree to, possess knowledge of, engage in, or otherwise participate in any</p>			

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					<p>of the illegal activity alleged in the indictment. The court found the summary of expected testimony to be too general to grant immunity. In addition, it was far from clear whether the court had the power to grant testimonial use immunity to second defendant. Defendants' motion to recuse was denied. First defendant's motions to compel and to sever were denied.</p>			

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Ways v. Shively	Supreme Court of Nebraska	264 Neb. 250; 646 N.W.2d 621; 2002 Neb. LEXIS 158	July 5, 2002	Appellant felon filed a writ of mandamus, which sought to compel appellee Election Commissioner of Lancaster County, Nebraska, to permit him to register to vote. The District Court for Lancaster County denied the felon's petition for writ of mandamus and dismissed the petition. The felon appealed.	The felon was discharged from the Nebraska State Penitentiary in June 1998 after completing his sentences for the crimes of pandering, carrying a concealed weapon and attempting to possess a controlled substance. The commissioner asserted that as a result of the felon's conviction, the sentence for which had neither been reversed nor annulled, he had lost his right to vote. The commissioner contended that the	No	N/A	No

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					<p>only method by which the felon's right to vote could be restored was through a warrant of discharge issued by the Nebraska Board of Pardons-- -a warrant of discharge had not been issued. The supreme court ruled that the certificate of discharge issued to the felon upon his release did not restore his right to vote. The supreme court ruled that as a matter of law, the specific right to vote was not restored to the felon upon his discharge from incarceration at the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					completion of his sentences. The judgment was affirmed.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court declared the disenfranchisement	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the authority under</p>			

013846

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					authority.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw. LEXIS 534	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights.	Petitioner convicted felons were presently or had formerly been confined in state prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.			
NAACP Philadelphia	United States District Court	2000 U.S.	August 14, 2000	Plaintiffs moved for a preliminary	Plaintiffs, ex--felon,	No	N/A	No

013850

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Branch v. Ridge	for the Eastern District of Pennsylvania	Dist. LEXIS 11520		injunction, which the parties agreed to consolidate with the merits determination for a permanent injunction, in plaintiffs' civil rights suit contending that the Pennsylvania Voter Registration Act, offended the Equal Protection Clause of U.S. Const. amend. XIV.	unincorporated association, and others, filed a civil rights suit against defendant state and local officials, contending that the Pennsylvania Voter Registration Act, violated the Equal Protection Clause by prohibiting some ex--felons from voting during the five year period following their release from prison, while permitting other ex--felons to vote. Plaintiffs conceded that one plaintiff lacked standing, and the court assumed the remaining			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>plaintiffs had standing. The court found that all that all three of the special circumstances necessary to invoke the Pullman doctrine were present in the case, but found that abstention was not appropriate under the circumstances since it did not agree with plaintiffs' contention that the time constraints caused by the upcoming election meant that the option of pursuing their claims in state court did not offer plaintiffs an</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					adequate remedy. Plaintiff's motion for permanent injunction denied; the court abstained from deciding merits of plaintiffs' claims under the Pullman doctrine because all three of the special circumstances necessary to invoke the doctrine were present in the case; all further proceedings stayed until further order.			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations of the Voting Rights Act. The parties filed cross--	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights schemes, premised upon Wash. Const. art. VI § 3,	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>motions for summary judgment.</p>	<p>resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of minorities; as a result, minorities</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new constitutional problem, allowing</p>			

013855

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.			
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.			
King v. City of Boston	United States District Court for the District of Massachusetts	2004 U.S. Dist. LEXIS 8421	May 13, 2004	Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned.	The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional rights. The court found the statute at issue to be</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					constitutional and denied the inmate's motion for summary judgment.			
Hayden v. Pataki	United States District Court for the Southern District of New York	2004 U.S. Dist. LEXIS 10863	June 14, 2004	In a 42 U.S.C.S. § 1983 action filed by plaintiffs, black and latino convicted felons, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) were unconstitutional, defendants, New York's governor and the chairperson of the board of elections, moved for judgment on the pleadings under Fed. R. Civ. P. 12(c).	The felons sued defendants, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) unlawfully denied suffrage to incarcerated and paroled felons on account of their race. The court granted defendants' motion for judgment on the pleadings on the felons' claims under U.S. Const. amend. XIV, XV because their factual allegations were insufficient	No	N/A	No

013862

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					<p>from which to draw an inference that the challenged provisions or their predecessors were enacted with discriminatory intent, and because denying suffrage to those who received more severe punishments, such as a term of incarceration, and not to those who received a lesser punishment, such as probation, was not arbitrary. The felons' claims under 42 U.S.C.S. § 1973 were dismissed because § 1973 could not be used to challenge the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>legality of N.Y. Elec. Law § 5--106. Defendants' motion was granted as to the felons' claims under 42 U.S.C.S. § 1971 because § 1971 did not provide for a private right of action, and because the felons were not "otherwise qualified to vote." The court also granted defendants' motion on the felons' U.S. Const. amend. I claim because it did not guarantee a felon the right to vote. Defendants' motion for judgment on the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					pleadings was granted in the felons' § 1983 action.			
Farrakhan v. Washington	United States Court for Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race-based vote denial in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised. The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation	No	N/A	No

013865

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included</p>			

013866

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					<p>analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					further proceedings to the bias in the criminal justice system claim.			
In re Phillips	Supreme Court of Virginia	265 Va. 81; 574 S.E.2d 270; 2003 Va. LEXIS 10	January 10, 2003	The circuit court, entered a judgment in which it declined to consider petitioner former felon's petition for approval of her request to seek restoration of her eligibility to register to vote. The former felon appealed.	More than five years earlier, the former felon was convicted of the felony of making a false written statement incident to a firearm purchase. She then petitioned the trial court asking it to approve her request to seek restoration of her eligibility to register to vote. Her request was based on Va. Code Ann. § 53.1--231.2, allowing persons convicted of non--violent	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>felonies to petition a trial court for approval of a request to seek restoration of voting rights. The trial court declined. It found that Va. Code Ann. § 53.1--231.2 violated constitutional separation of powers principles since it gave the trial court powers belonging to the governor. It also found that even if the statute was constitutional, it was fundamentally flawed for not providing notice to respondent Commonwealth regarding a</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>petition. After the petition was denied, the state supreme court found the separation of powers principles were not violated since the statute only allowed the trial court to determine if an applicant met the requirements to have voting eligibility restored. It also found the statute was not fundamentally flawed since the Commonwealth was not an interested party entitled to notice. OUTCOME: The judgment was reversed and the</p>			

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					case was remanded for further proceedings.			
Howard v. Gilmore	United States Court of Appeals for the Fourth Circuit	2000 U.S. App. LEXIS 2680	February 23, 2000	Appellant challenged the United States District Court for the Eastern District of Virginia's order summarily dismissing his complaint, related to his inability to vote as a convicted felon, for failure to state a claim upon which relief can be granted.	Appellant was disenfranchised by the Commonwealth of Virginia following his felony conviction. He challenged that decision by suing the Commonwealth under the U.S. Const. amends. I, XIV, XV, XIX, and XXIV, and under the Voting Rights Act of 1965. The lower court summarily dismissed his complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Appellant challenged. The court found U.S. Const. amend. I created no private right of action for seeking reinstatement of previously canceled voting rights, U.S. Const. amends. XIV, XV, XIX, and the VRA required either gender or race discrimination, neither of which appellant asserted, and the U.S. Const. amend. XXIV, while prohibiting the imposition of poll taxes, did not prohibit the imposition of a \$10 fee for</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					reinstatement of appellant's civil rights, including the right to vote. Consequently, appellant failed to state a claim. The court affirmed, finding that none of the constitutional provisions appellant relied on were properly pled because appellant failed to assert that either his race or gender were involved in the decisions to deny him the vote. Conditioning reestablishment of his civil rights on a \$10 fee was not unconstitutional.			
Johnson v.	United States	353 F.3d	December	Plaintiffs, ex--felon	The citizens	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Governor of Fla.	Court of Appeals for the Eleventh Circuit	1287; 2003 U.S. App. LEXIS 25859	19, 2003	citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.	alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a discriminatory animus. The citizens had met their initial burden of showing that			

013874

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court found that the claim under the Voting Rights Act, also needed to be remanded for further proceedings. Under a totality of the circumstances,</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions, in violation of the Voting Rights Act. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for violation of federal voting laws and remanded the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					matter to the district court for further proceedings.			
State v. Black	Court of Appeals of Tennessee	2002 Tenn. App. LEXIS 696	September 26, 2002	In 1997, petitioner was convicted of forgery and sentenced to the penitentiary for two years, but was immediately placed on probation. He subsequently petitioned the circuit court for restoration of citizenship. The trial court restored his citizenship rights. The State appealed. The appellate court issued its opinion, but granted the State's motions to supplement the record and to	The appellate court's original opinion found that petitioner had not lost his right to hold public office because Tennessee law removed that right only from convicted felons who were "sentenced to the penitentiary." The trial court's amended judgment made it clear that petitioner was in fact sentenced to the penitentiary. Based upon this correction to the record, the appellate court	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				rehear its decision.	found that petitioner's sentence to the penitentiary resulted in the forfeiture of his right to seek and hold public office by operation of Tenn. Code Ann. § 40-20--114. However, the appellate court concluded that this new information did not requires a different outcome on the merits of the issue of restoration of his citizenship rights, including the right to seek and hold public office. The appellate court adhered to its conclusion that the			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>statutory presumption in favor of the restoration was not overcome by a showing, by a preponderance of the evidence, of good cause to deny the petition for restoration of citizenship rights. The appellate court affirmed the restoration of petitioner's right to vote and reversed the denial of his right to seek and hold public office. His full rights of citizenship were restored.</p>			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh	405 F.3d 1214; 2005 U.S.	April 12, 2005	Plaintiff individuals sued defendant members of Florida	The individuals argued that the racial animus motivating the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Circuit	App. LEXIS 5945		Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and 42 U.S.C.S. § 1973. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.	adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial discrimination at			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that 42 U.S.C.S. § 1973 applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment permitted the state</p>			

013881

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.</p>			

013882

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Hileman v. McGinness	Appellate Court of Illinois, Fifth District	316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845	October 25, 2000	Appellant challenged the circuit court's declaration that that the result of a primary election for county circuit clerk was void.	In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>segregated, apportionment was the appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					determination as to whether fraud was evident in the electoral process. Judgment reversed and remanded.			
Eason v. State	Court of Appeals of Mississippi	2005 Miss. App. LEXIS 1017	December 13, 2005	Defendant appealed a decision of the circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud.	Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant	No	N/A	No

013885

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>would drive the voters to the clerk's office where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the</p>			

013886

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					argument arose because, while the prosecutor's closing argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Judgment affirmed.			
Wilson v.	Court of	2000 Va.	May 2,	Defendant	At trial, the	No	N/A	No

013887

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Commonwealth	Appeals of Virginia	App. LEXIS 322	2000	appealed the judgment of the circuit court which convicted her of election fraud.	Commonwealth introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the Department of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. Judgment affirmed.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala. LEXIS 214	December 9, 2005	The circuit court overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of	The voters and the incumbent all challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				its judgment pending resolution of the appeal.	at least 30 absentee voters who voted for the incumbent provided with their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					with the absentee--voting requirements. The judgment declaring the incumbent's opponent the winner was affirmed. The judgment counting the challenged votes in the final tally of votes was reversed, and said votes were subtracted from the incumbents total, and the stay was vacated. All other arguments were rendered moot as a result.			
ACLU of Minn. v.	United States	2004 U.S. Dist.	October 29, 2004	Plaintiffs, voters and	Plaintiffs argued that Minn. Stat.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Kiffmeyer	District Court for the District of Minnesota	LEXIS 22996		associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration.	§ 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal Protection Clause of the Fourteenth</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on their claims that Minn. R. 8200.5100,</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to	The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional	No	N/A	No

013898

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				dismiss.	ballot, a first--time voter could identify himself by providing his driver's license number or the last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, even if the cost, in terms of uncounted ballots, was regrettable. The court granted the Secretary's motion to dismiss.			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
New York v. County of Del.	United States District Court for the Northern District of New York	82 F. Supp. 2d 12; 2000 U.S. Dist. LEXIS 1398	February 8, 2000	Plaintiffs brought a claim in the district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued.	In their complaint plaintiffs alleged that defendants violated the ADA by making the voting locations inaccessible to disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct parties, because	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>pursuant to New York election law defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, due to the alleged</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					facts, the court found plaintiffs would likely succeed on the merits. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction and granted plaintiffs' motion for leave to amend their complaint.			
New York v. County of Schoharie	United States District	82 F. Supp. 2d 19; 2000	February 8, 2000	Plaintiffs brought a claim in the	In their complaint, plaintiffs	No	N/A	No

013904

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Northern District of New York	U.S. Dist. LEXIS 1399		district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and a motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued.	alleged defendants violated the ADA by allowing voting locations to be inaccessible for disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct party, because pursuant to New York election law,			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, the court found that plaintiffs would likely succeed on the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>merits of their case. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction because plaintiffs showed irreparable harm and proved likely success on the merits and granted plaintiff's motion for leave to amend the complaint.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Westchester Disabled on the Move, Inc. v. County of Westchester	United States District Court for the Southern District of New York	346 F. Supp. 2d 473; 2004 U.S. Dist. LEXIS 24203	October 22, 2004	Plaintiffs sued defendant county, county board of elections, and election officials pursuant to 42 U.S.C.S. §§ 12131--12134, N.Y. Exec. Law § 296, and N.Y. Elec. Law § 4--1--4. Plaintiffs moved for a preliminary injunction, requesting (among other things) that the court order defendants to modify the polling places in the county so that they	The inability to vote at assigned locations on election day constituted irreparable harm. However, plaintiffs could not show a likelihood of success on the merits because the currently named defendants could not provide complete relief sought by plaintiffs. Although the county board of elections was empowered to	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>were accessible to disabled voters on election day. Defendants moved to dismiss.</p>	<p>select an alternative polling place should it determine that a polling place designated by a municipality was "unsuitable or unsafe," it was entirely unclear that its power to merely designate suitable polling places would be adequate to ensure that all polling places used in the upcoming election actually conformed</p>			

013909

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>with the Americans with Disabilities Act. Substantial changes and modifications to existing facilities would have to be made, and such changes would be difficult, if not impossible, to make without the cooperation of municipalities. Further, the court could order defendants to approve voting machines that conformed to</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the ADA were they to be purchased and submitted for county approval, but the court could not order them to purchase them for the voting districts in the county. A judgment issued in the absence of the municipalities would be inadequate. Plaintiffs' motion for preliminary injunction was denied, and defendants' motion to dismiss was granted.</p>			

013911

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Nat'l Org. on Disability v. Tartaglione	United States District Court for the Eastern District of Pennsylvania	2001 U.S. Dist. LEXIS 16731	October 11, 2001	Plaintiffs, disabled voters and special interest organizations, sued defendants, city commissioners, under the Americans with Disabilities Act and § 504 of the Rehabilitation Act of 1973, and regulations under both statutes, regarding election practices. The commissioners moved to dismiss for failure (1) to	The voters were visually impaired or wheelchair bound. They challenged the commissioners' failure to provide talking voting machines and wheelchair accessible voting places. They claimed discrimination in the process of voting because they were not afforded the same opportunity to participate in the voting process as non-disabled	No	N/A	Yes-see if the case was refiled

013912

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				state a cause of action and (2) to join an indispensable party.	voters, and assisted voting and voting by alternative ballot were substantially different from, more burdensome than, and more intrusive than the voting process utilized by non--disabled voters. The court found that the complaint stated causes of actions under the ADA, the Rehabilitation Act, and 28 C.F.R. §§ 35.151 and			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>35.130. The court found that the voters and organizations had standing to raise their claims. The organizations had standing through the voters' standing or because they used significant resources challenging the commissioners' conduct. The plaintiffs failed to join the state official who would need to approve any talking voting machine as a</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>party. As the court could not afford complete relief to the visually impaired voters in that party's absence, it granted the motion to dismiss under Fed. R. Civ. P. 12(b)(7) without prejudice. The court granted the commissioners' motion to dismiss in part, and denied it in part. The court granted the motion to dismiss the claims of the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					visually impaired voters for failure to join an indispensable party, without prejudice, and with leave to amend the complaint.			
TENNESSEE, Petitioner v. GEORGE LANE et al.	United States Supreme Court	541 U.S. 509; 124 S. Ct. 1978; 158 L. Ed. 2d 820; 2004 U.S. LEXIS 3386	May 17, 2004	Respondent paraplegics sued petitioner State of Tennessee, alleging that the State failed to provide reasonable access to court facilities in violation of Title II of the Americans with Disabilities Act	The state contended that the abrogation of state sovereign immunity in Title II of the ADA exceeded congressional authority under U.S. Const. amend XIV, § 5, to enforce substantive constitutional guarantees.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>of 1990. Upon the grant of a writ of certiorari, the State appealed the judgment of the United States Court of Appeals for the Sixth Circuit which denied the State's claim of sovereign immunity.</p>	<p>The United States Supreme Court held, however, that Title II, as it applied to the class of cases implicating the fundamental right of access to the courts, constituted a valid exercise of Congress's authority. Title II was responsive to evidence of pervasive unequal treatment of persons with disabilities in the administration of state</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>services and programs, and such disability discrimination was thus an appropriate subject for prophylactic legislation. Regardless of whether the State could be subjected to liability for failing to provide access to other facilities or services, the fundamental right of access to the courts warranted the limited requirement that the State reasonably</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>accommodate disabled persons to provide such access. Title II was thus a reasonable prophylactic measure, reasonably targeted to a legitimate end. The judgment denying the State's claim of sovereign immunity was affirmed.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.	The voters asserted that § 3503.02---- which stated that the place where the family of a married man or woman resided was considered to be his or her place of residence----violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in	No	N/A	No

013920

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann. § 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable</p>			

013921

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.			
Wilson v. Commonwealth	Court of Appeals of Virginia	2000 Va. App. LEXIS 322	May 2, 2000	Defendant appealed the judgment of the circuit court which convicted her of election fraud.	On appeal, defendant argued that the evidence was insufficient to support her conviction because it failed to prove that she made a willfully false statement on her voter registration form and, even if the evidence did prove that she made such a statement, it did not prove that the voter registration form was the form	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>required by Title 24.2. At trial, the Commonwealth introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from the Department of Motor Vehicles and school records. Thus, the evidence</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed by Title 24.2 in order for her to be a candidate for office in the primary in question. Judgment of conviction affirmed. Evidence, including records showing electricity and water usage, records from the Department of Motor Vehicles and school records, was sufficient to support jury's verdict that defendant made "a false material statement" on the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					voter registration card required to be filed in order for her to be a candidate for office in the primary in question.			
ACLU of Minn. v. Kiffmeyer	United States District Court for the District of Minnesota	2004 U.S. Dist. LEXIS 22996	October 29, 2004	Plaintiffs, voters and associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration.	Plaintiffs argued that Minn. Stat. § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on their claims that Minn. R. 8200.5100, violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.			
Kalsson v. United States FEC	United States District Court for the Southern District of New York	356 F. Supp. 2d 371; 2005 U.S. Dist. LEXIS 2279	February 16, 2005	Defendant Federal Election Commission filed a motion to dismiss for lack of subject matter jurisdiction plaintiff individual's	The individual claimed that his vote was diluted because the NVRA resulted in more people registering to vote than otherwise would have been the case. The court held	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>action, which sought a declaration that the National Voter Registration Act was unconstitutional on the theories that its enactment was not within the enumerated powers of the federal government and that it violated Article II of the United States Constitution.</p>	<p>that the individual lacked standing to bring the action. Because New York was not obliged to adhere to the requirements of the NVRA, the individual did not allege any concrete harm. If New York simply adopted election day registration for elections for federal office, it would have been entirely free of the NVRA just as were five other states. Even if the individual's vote were diluted, and even if such an injury in other circumstances might have sufficed for standing, any</p>			

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					dilution that he suffered was the result of New York's decision to maintain a voter registration system that brought it under the NVRA, not the NVRA itself. The court granted the motion to dismiss for lack of subject matter jurisdiction.			
Peace & Freedom Party v. Shelley	California Court of Appeal, Third Appellate District	114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42	January 15, 2004	Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel defendant, the California Secretary of State, to include voters listed in	The trial court ruled that inactive voters were excluded from the primary election calculation. The court of appeals affirmed, observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and	No	N/A	No

013929

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.</p>	<p>importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in California could correct the record and vote. Affirmed.			
McKay v. Thompson	United States Court of Appeals for the Sixth Circuit	226 F.3d 752; 2000 U.S. App. LEXIS 23387	September 18, 2000	Plaintiff challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials	The trial court had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous caselaw, and could be challenged in state court. The requirement did not violate the Privacy Act because it was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision			

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					<p>regarding such use. Plaintiff could not enforce § 1971 as it was enforceable only by the United States Attorney General. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. Although the trial court arguably erred in denying certification of the case to the USAG under 28 U.S.C.S. § 2403(a), plaintiff suffered no harm from the technical violation. Order affirmed because requirement that</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims.			
Lucas County Democratic Party v. Blackwell	United States District Court for the Northern District of Ohio	341 F. Supp. 2d 861; 2004 U.S. Dist. LEXIS 21416	October 21, 2004	Plaintiff organizations brought an action challenging a memorandum issued by defendant, Ohio's Secretary of State, in December 2003.	The case involved a box on Ohio's voter registration form that required a prospective voter who registered in person to supply an Ohio driver's license number or the last four digits of their	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>The organizations claimed that the memorandum contravened provisions of the Help America Vote Act and the National Voter Registration Act. The organizations moved for a preliminary injunction.</p>	<p>Social Security number. In his memorandum, the Secretary informed all Ohio County Boards of Elections that, if a person left the box blank, the Boards were not to process the registration forms. The organizations did not file their suit until 18 days before the national election. The court found that there was not enough time before the election to develop the evidentiary record necessary to determine if the organizations were likely to succeed on the merits of their claim. Denying the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>organizations' motion would have caused them to suffer no irreparable harm. There was no appropriate remedy available to the organizations at the time. The likelihood that the organizations could have shown irreparable harm was, in any event, slight in view of the fact that they waited so long before filing suit. Moreover, it would have been entirely improper for the court to order the Boards to re--open in--person registration until election day. The public interest would have been ill-</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					-served by an injunction. The motion for a preliminary injunction was denied sua sponte.			
Nat'l Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales	United States District Court for the District of Maryland	150 F. Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528	July 5, 2001	Plaintiff, national organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for	Defendants alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter	No	N/A	No

013937

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				summary judgment.	registration services were not registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter registration services at the initial			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university.</p> <p>Defendants' motion to dismiss first amended complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					for summary judgment was denied.			
People v. Disimone	Court of Appeals of Michigan	251 Mich. App. 605; 650 N.W.2d 436; 2002 Mich. App. LEXIS 826	July 11, 2002	Defendant was charged with attempting to vote more than once in the 2000 general election. The circuit court granted defendant's motion that the State had to prove specific intent. The State appealed.	Defendant was registered in the Colfax township for the 2000 general election. After presenting what appeared to be a valid voter's registration card, defendant proceeded to vote in the Grant township. Defendant had voted in the Colfax township earlier in the day. Defendant moved the court to issue an order that the State had to find that he had a specific intent to vote twice in order to be convicted. The appellate court	No	N/A	No

013940

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>reversed the circuit court judgment and held that under the rules of statutory construction, the fact that the legislature had specifically omitted certain trigger words such as "knowingly," "willingly," "purposefully," or "intentionally" it was unlikely that the legislature had intended for this to be a specific intent crime. The court also rejected the defendant's argument that phrases such as "offer to vote" and "attempt to vote" should be construed as synonymous</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					terms, as when words with similar meanings were used in the same statute, it was presumed that the legislature intended to distinguish between the terms. The order of the circuit court was reversed.			
Diaz v. Hood	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445	October 26, 2004	Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials,	The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>refused to process their voter registrations for various failures to complete the registration forms. The election officials moved to dismiss the complaint for lack of standing and failure to state a claim.</p>	<p>putative voters raised separate issues: the first had failed to verify her mental capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter applicants whose</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. The motions to dismiss the complaint were granted without prejudice.</p>			
Charles H.	United	324 F.	July 1,	Plaintiffs, a voter,	The organization	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Wesley Educ. Found., Inc. v. Cox	States District Court for the Northern District of Georgia	Supp. 2d 1358; 2004 U.S. Dist. LEXIS 12120	2004	fraternity members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV.	participated in numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an</p>			

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					<p>injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Plaintiffs' motion for a preliminary injunction was granted. Defendants were ordered to process the applications received from the organization to determine whether those registrants were qualified to vote. Furthermore, defendants were enjoined from rejecting any voter registration application on the grounds that it was</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mailed as part of a "bundle" or that it was collected by someone not authorized or any other reason contrary to the NVRA.			
Moseley v. Price	United States District Court for the Eastern District of Virginia	300 F. Supp. 2d 389; 2004 U.S. Dist. LEXIS 850	January 22, 2004	Plaintiff alleged, that defendants' actions in investigating his voter registration application constituted a change in voting procedures requiring § 5 preclearance under the Voting Rights Act, which preclearance was never sought or received. Plaintiff claimed he withdrew from	The court concluded that plaintiff's claim under the Voting Rights Act lacked merit. Plaintiff did not allege, as required, that any defendants implemented a new, uncleared voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. Here, the existing practice or procedure in effect	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the race for Commonwealth Attorney because of the investigation. Defendants moved to dismiss the complaint.</p>	<p>in the event a mailed registration card was returned was to "resend the voter card, if address verified as correct." This was what precisely occurred. Plaintiff inferred, however, that the existing voting rule or practice was to resend the voter card "with no adverse consequences" and that the county's initiation of an investigation constituted the implementation of a change that had not been pre--cleared. The court found the inference wholly unwarranted</p>			

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					<p>because nothing in the written procedure invited or justified such an inference. The court opined that common sense and state law invited a different inference, namely that while a returned card had to be resent if the address was verified as correct, any allegation of fraud could be investigated. Therefore, there was no new procedure for which preclearance was required. The court dismissed plaintiff's federal claims. The court dismissed the state law claims without prejudice.</p>			
Thompson v.	Supreme	295	June 10,	Respondents	Respondents alleged	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Karben	Court of New York, Appellate Division, Second Department	A.D.2d 438; 743 N.Y.S.2d 175; 2002 N.Y. App. Div. LEXIS 6101	2002	filed a motion seeking the cancellation of appellant's voter registration and political party enrollment on the ground that appellant was unlawfully registered to vote in a particular district. The Supreme Court, Rockland County, New York, ordered the cancellation of appellant's voter registration and party enrollment. Appellant challenged the trial court's order.	that appellant was unlawfully registered to vote from an address at which he did not reside and that he should have voted from the address that he claimed as his residence. The appellate court held that respondents adduced insufficient proof to support the conclusion that appellant did not reside at the subject address. On the other hand, appellant submitted copies of his 2002 vehicle registration, 2000 and 2001 federal income tax returns, 2002 property tax bill, a May 2001 paycheck			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>stub, and 2000 and 2001 retirement account statements all showing the subject address. Appellant also testified that he was a signatory on the mortgage of the subject address and that he kept personal belongings at that address.</p> <p>Respondents did not sustain their evidentiary burden. The judgment of the trial court was reversed.</p>			
Nat'l Coalition v. Taft	United States District Court for the Southern District of Ohio	2002 U.S. Dist. LEXIS 22376	August 2, 2002	Plaintiffs, a nonprofit public interest group and certain individuals, sued defendants, certain state and university	The court found that the disability services offices at issue were subject to the NVRA because the term "office" included a subdivision of a	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>officials, alleging that they violated the National Voter Registration Act in failing to designate the disability services offices at state public colleges and universities as voter registration sites. The group and individuals moved for a preliminary injunction.</p>	<p>government department or institution and the disability offices at issue were places where citizens regularly went for service and assistance. Moreover, the Ohio Secretary of State had an obligation under the NVRA to designate the disability services offices as voter registration sites because nothing in the law superceded the NVRA's requirement that the responsible state official designate disability services offices as voter registration sites. Moreover, under</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Ohio Rev. Code Ann. § 3501.05(R), the Secretary of State's duties expressly included ensuring compliance with the NVRA. The case was not moot even though the Secretary of State had taken steps to ensure compliance with the NVRA given his position to his obligation under the law. The court granted declaratory judgment in favor of the nonprofit organization and the individuals. The motion for a preliminary injunction was granted in part and the Secretary of</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					State was ordered to notify disabled students who had used the designated disability services offices prior to the opening day of the upcoming semester or who had pre--registered for the upcoming semester as to voter registration availability.			
Lawson v. Shelby County	United States Court of Appeals for the Sixth Circuit	211 F.3d 331; 2000 U.S. App. LEXIS 8634	May 3, 2000	Plaintiffs who were denied the right to vote when they refused to disclose their social security numbers, appealed a judgment of the United States District Court for the Western	Plaintiffs attempted to register to vote in October, and to vote in November, but were denied because they refused to disclose their social security numbers. A year after the election date they filed suit alleging denial of constitutional rights,	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>District of Tennessee at Memphis dismissing their amended complaint for failure to state claims barred by U.S. Const. amend. XI.</p>	<p>privileges and immunities, the Privacy Act of 1974 and § 1983. The district court dismissed, finding the claims were barred by U.S. Const. amend. XI, and the one year statute of limitations. The appeals court reversed, holding the district court erred in dismissing the suit because U.S. Const. amend. XI immunity did not apply to suits brought by a private party under the Ex Parte Young exception. Any damages claim not ancillary to injunctive relief was</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>barred. The court also held the statute of limitations ran from the date plaintiffs were denied the opportunity to vote, not register, and their claim was thus timely. Reversed and remanded to district court to order such relief as will allow plaintiffs to vote and other prospective injunctive relief against county and state officials; declaratory relief and attorneys' fees ancillary to the prospective injunctive relief, all permitted under the Young exception to sovereign immunity,</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					to be fashioned.			
Curtis v. Smith	United States District Court for the Eastern District of Texas	145 F. Supp. 2d 814; 2001 U.S. Dist. LEXIS 8544	June 4, 2001	Plaintiffs, representatives of several thousand retired persons who called themselves the "Escapees," and who spent a large part of their lives traveling about the United States in recreational vehicles, but were registered to vote in the county, moved for preliminary injunction seeking to enjoin a Texas state court proceeding under the All Writs Act.	Before a general election, three persons brought an action alleging the Escapees were not bona fide residents of the county, and sought to have their names expunged from the rolls of qualified voters. The plaintiffs brought suit in federal district court. The court issued a preliminary injunction forbidding county officials from attempting to purge the voting. Commissioner contested the results of the election, alleging Escapees' votes should be	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>disallowed. Plaintiffs brought present case assertedly to prevent the same issue from being relitigated. The court held, however, the issues were different, since, unlike the case in the first proceeding, there was notice and an opportunity to be heard. Further, unlike the first proceeding, the plaintiff in the state court action did not seek to change the prerequisites for voting registration in the county, but instead challenged the actual residency of some members of the Escapees, and</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					such challenge properly belonged in the state court. The court further held that an election contest under state law was the correct vehicle to contest the registration of Escapees. The court dissolved the temporary restraining order it had previously entered and denied plaintiffs' motion for preliminary injunction of the state court proceeding.			
Pepper v. Darnell	United States Court of Appeals for the Sixth Circuit	24 Fed. Appx. 460; 2001 U.S. App. LEXIS 26618	December 10, 2001	Plaintiff individual appealed from a judgment of the district court, in an action against defendant state	Individual argued on appeal that the district court erred in finding that the registration forms used by the state did not violate the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>officials seeking relief under § 1983 and the National Voter Registration Act, for their alleged refusal to permit individual to register to vote. Officials had moved for dismissal or for summary judgment, and the district court granted the motion.</p>	<p>NVRA and in failing to certify a class represented by individual. Individual lived in his automobile and received mail at a rented box. Officials refused to validate individual's attempt to register to vote by mail. Tennessee state law forbade accepting a rented mail box as the address of the potential voter. Individual insisted that his automobile registration provided sufficient proof of residency under the NVRA. The court upheld the legality of state's requirement that one registering to vote</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>provide a specific location as an address, regardless of the transient lifestyle of the potential voter, finding state's procedure faithfully mirrored the requirements of the NVRA as codified in the Code of Federal Regulations. The court also held that the refusal to certify individual as the representative of a class for purposes of this litigation was not an abuse of discretion; in this case, no representative party was available as the indigent individual, acting in his own behalf, was clearly</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					unable to represent fairly the class. The district court's judgment was affirmed.			
Miller v. Blackwell	United States District Court for the Southern District of Ohio	348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894	October 27, 2004	Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order (TRO). Two	Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>individuals filed a motion to intervene as defendants.</p>	<p>substantial legal interest in the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>success on the merits because they made a strong showing that defendants' intended actions regarding pre--election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court also granted the individuals' motion to intervene.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Miller v. Blackwell	United States District Court for the southern District of Ohio	348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894	October 27, 2004	Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order. Two individuals filed a motion to intervene as defendants.	Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in the subject matter of	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of success on the merits because</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					they made a strong showing that defendants' intended actions regarding pre-- election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court also granted the individuals' motion to intervene.			
Spencer v. Blackwell	United States	347 F. Supp. 2d	November 1, 2004	Plaintiff voters filed a motion for	The voters alleged that defendants	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	District Court for the Southern District of Ohio	528; 2004 U.S. Dist. LEXIS 22062		temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls.	had combined to implement a voter challenge system at the polls that discriminated against African-American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of</p>			

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					<p>chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door.</p> <p>Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. Because the voters had shown a substantial likelihood of success on the merits on the ground that the application of Ohio's statute allowing challengers at polling places was unconstitutional</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					and the other factors governing the issuance of an injunction weighed in their favor, the court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day.			
Charfauros v. Bd. of Elections	United States Court of Appeals for the Ninth Circuit	2001 U.S. App. LEXIS 15083	May 10, 2001	Defendants, board of elections and related individuals, appealed from an order of the Supreme Court of the Commonwealth of the Northern	Plaintiffs, disqualified voters, claimed that individual members of the Commonwealth of the Northern Mariana Islands Board of Elections violated § 1983 by	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Mariana Islands reversing a lower court's grant of summary judgment in favor of defendants on the ground of qualified immunity.</p>	<p>administering pre-election day voter challenge procedures which precluded a certain class of voters, including plaintiffs, from voting in a 1995 election. The CNMI Supreme Court reversed a lower court's grant of summary judgment and defendants appealed. The court of appeals held that the Board's pre-election day procedures violated the plaintiffs' fundamental right to vote. The federal court</p>			

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					<p>reasoned that the right to vote was clearly established at the time of the election, and that a reasonable Board would have known that that treating voters differently based on their political party would violate the Equal Protection Clause. Further the court added that the allegations of the complaint were sufficient to support liability of the Board members in their individual capacities. Finally, the composition of the CNMI Supreme Court's Special Judge</p>			

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					panel did not violate the Board's right to due process of law. The decision of Commonwealth of the Northern Mariana Islands Supreme Court was affirmed where defendants' pre--election day voter challenge procedures violated plaintiffs' fundamental right to vote.			
Wit v. Berman	United States Court of Appeals for the Second Circuit	306 F.3d 1256; 2002 U.S. App. LEXIS 21301	October 11, 2002	Appellant voters who established residences in two separate cities sued appellees, state and city election officials, alleging that provisions of the New York State	Under state election laws, the voters could only vote in districts in which they resided, and residence was limited to one place. The voters contended that,	No	N/A	No

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				<p>Election Law unconstitutionally prevented the voters from voting in local elections in both cities where they resided. The voters appealed the order of the United States District Court for the Southern District of New York which granted appellees' motion to dismiss the complaint.</p>	<p>since they had two lawful residences, they were denied constitutional equal protection by the statutory restriction against voting in the local elections of both of the places of their residences. The appellate court held, however, that no constitutional violation was shown since the provisions of the New York State Election Law imposed only reasonable, nondiscriminatory restrictions which advanced important state regulatory</p>			

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					<p>interests. While the voters may have interests in electoral outcomes in both cities, any rule permitting voting based on such interests would be unmanageable and subject to potential abuse. Further, basing voter eligibility on domicile, which was always over-- or under-- inclusive, nonetheless had enormous practical advantages, and the voters offered no workable standard to replace the domicile test. Finally, allowing the voters to</p>			

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					choose which of their residences was their domicile for voting purposes could not be deemed discriminatory. Affirmed.			
Curtis v. Smith	United States District Court for the Eastern District of Texas	121 F. Supp. 2d 1054; 2000 U.S. Dist. LEXIS 17987	November 3, 2000	Plaintiffs sought a preliminary injunction to prohibit defendant tax assessor-collector from mailing confirmation letters to approximately 9,000 persons who were registered voters in Polk County, Texas.	Plaintiffs sought to prohibit defendant from mailing confirmation letters to approximately 9,000 persons, self-styled "escapees" who traveled a major portion of each year in recreational vehicles, all of whom were registered to vote in Polk County, Texas. In accordance with	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Texas law, three resident voters filed affidavits challenging the escapees' residency. These affidavits triggered defendant's action in sending confirmation notices to the escapees. The court determined, first, that because of the potential for discrimination, defendant's action required preclearance in accordance with § 5 of the Voting Rights Act and, second, that such preclearance had not been sought or obtained. Accordingly, the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court issued a preliminary injunction prohibiting defendant from pursuing the confirmation of residency of the escapees, or any similarly situated group, under the Texas Election Code until the process had been submitted for preclearance in accordance with § 5. The action was taken to ensure that no discriminatory potential existed in the use of such process in the upcoming presidential election or future</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					election. Motion for preliminary injunction was granted, and defendant was enjoined from pursuing confirmation of residency of the 9,000 "escapees," or any similarly situated group, under the Texas Election Code, until the process had been submitted for preclearance under § 5 of the Voting Rights Act.			
Peace & Freedom Party v. Shelley	Court of Appeal of California, Third Appellate District	114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App.	January 15, 2004	Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of	The trial court ruled that inactive voters were excluded from the primary election. The court of appeals affirmed,	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 42		mandate to compel defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.	observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure			

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					<p>that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					California could correct the record and vote as provided the Act. The court affirmed the denial of a writ of mandate.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment.	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>by inquiring into personal matters. As to the MVA claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>state's ability to condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for summary judgment were granted as to all</p>			

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					claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Charles H. Wesley Educ. Found., Inc. v. Cox	United States Court of Appeals for the Eleventh Circuit	408 F.3d 1349; 2005 U.S. App. LEXIS 8320	May 12, 2005	Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the	The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				foundation.	forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the			

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					complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.			
McKay v.	United	226 F.3d	September	Plaintiff	The trial court	No	N/A	No

013990

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thompson	States Court of Appeals for the Sixth Circuit	752; 2000 U.S. App. LEXIS 23387	18, 2000	challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims.			
Nat'l	United	150 F.	July 5,	Plaintiff, national	Defendants	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales	States District Court for the Southern District of Maryland	Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528	2001	organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.			
Cunningham v. Chi. Bd. of Election Comm'rs	United States District Court for the Northern District of Illinois	2003 U.S. Dist. LEXIS 2528	February 24, 2003	Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed	Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p>	<p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					preliminary relief was denied.			
Diaz v. Hood	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445	October 26, 2004	Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials	The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental	No	N/A	No

014000

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p>	<p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p>			

014002

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prejudice granted.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment.	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>condition eligible to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					summary judgment were granted as to all claims with prejudice, except the voters' state--law claim, which was dismissed for want of jurisdiction, without prejudice.			
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause	The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p>	<p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p>			

014007

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Charles H. Wesley Educ. Found., Inc. v. Cox	United States Court of Appeals for the Eleventh Circuit	408 F.3d 1349; 2005 U.S. App. LEXIS 8320	May 12, 2005	Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the	The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration	No	N/A	No

014010

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				foundation.	forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p>			
McKay v.	United	226 F.3d	September	Plaintiff	The trial court	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thompson	States Court of Appeals for the Sixth Circuit	752; 2000 U.S. App. LEXIS 23387	18, 2000	challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims.</p>			
Nat'l	United	150 F.	July 5,	Plaintiff, national	Defendants	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales	States District Court for the Southern District of Maryland	Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528	2001	organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.			
Cunningham v. Chi. Bd. of Election Comm'rs	United States District Court for the Northern District of Illinois	2003 U.S. Dist. LEXIS 2528	February 24, 2003	Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed	Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p>	<p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					preliminary relief was denied.			
Diaz v. Hood	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445	October 26, 2004	Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials	The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p>	<p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prejudice granted.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment.	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for</p>			

014027

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause	The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p>	<p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Hileman v. McGinness	Court of Appeals of Illinois, Fifth District	316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845	October 25, 2000	Appellant challenged the circuit court declaration that that the result of a primary election for county circuit clerk was void.	In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been segregated, apportionment was the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a determination as to whether fraud was evident in</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the electoral process. The court reversed the declaration of the trial court, holding that a determination as to whether fraud was involved in the election was necessary to a determination of whether or not a new election was required.			
DeFabio v. Gummersheimer	Supreme Court of Illinois	192 Ill. 2d 63; 733 N.E.2d 1241; 2000 Ill. LEXIS 993	July 6, 2000	Appellant challenged the judgment of the appellate court, which affirmed the trial court's decision granting appellee's summary judgment motion in action brought by	Appellee filed a petition for election contest, alleging that the official results of the Monroe County coroners election were invalid because none of the 524 ballots cast in	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellee to contest the results of the election for the position of county coroner in Monroe County.</p>	<p>Monroe County's second precinct were initialed by an election judge, in violation of Illinois law. The trial court granted appellee's motion for summary judgment, and the appellate court affirmed the judgment. The Illinois supreme court affirmed, noting that statutes requiring election judges to initial election ballots were mandatory, and uninitialed</p>			

014035

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption. Thus, the supreme court held that the trial court properly invalidated all of the ballots cast in Monroe County's second precinct. The court reasoned that none of the ballots contained the requisite initialing, and neither party argued that any</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>of the uninitialed ballots could have been distinguished or identified as absentee ballots. The supreme court affirmed the judgment because the Illinois statute requiring election judges to initial election ballots was mandatory, and uninitialed ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Additionally, none of the ballots in Monroe County's second precinct contained the requisite initialing.			
Gilmore v. Amityville Union Free Sch. Dist.	United States District Court for the Eastern District of New York	305 F. Supp. 2d 271; 2004 U.S. Dist. LEXIS 3116	March 2, 2004	Plaintiffs, two school board candidates, filed a class action complaint against defendants, a school district, the board president, and other district agents or employees, challenging a school board election. Defendants moved to dismiss.	During the election, a voting machine malfunctioned, resulting in votes being cast on lines that were blank on the ballot. The board president devised a plan for counting the machine votes by moving each tally up one line. The two candidates, who were African	No	N/A	No

014038

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>American, alleged that the president's plan eliminated any possibility that an African American would be elected. The court found that the candidates failed to state a claim under § 1983 because they could not show that defendants' actions were done or approved by a person with final policymaking authority, nor was there a showing of intentional or</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>purposeful discrimination on defendants' part. The vote-counting method applied equally to all candidates. The candidates' claims under § 2000a and 2000c--8 failed because schools were not places of public accommodation, as required under § 2000a, and § 2000c--8 applied to school segregation. Their claim under § 1971 of deprivation of voting rights failed because §</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					1971 did not provide for a private right of action. The court declined to exercise supplemental jurisdiction over various state law claims. Defendants' motion to dismiss was granted with respect to the candidates' federal claims; the state law claims were dismissed without prejudice.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot,	The Secretary of State issued a directive to all Ohio county boards of	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074		sought review of a judgment from the court of appeals, which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the			

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					<p>invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The court dismissed the complaint, finding that no clear legal right was established under Ohio law and the federal claims could be adequately raised in an action under § 1983. On appeal, the Ohio supreme court</p>			

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					held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed under § 1983 to raise the federal--law claims. Affirmed.			
Touchston v. McDermott	United States District Court for	120 F. Supp. 2d 1055; 2000	November 14, 2000	In action in which plaintiffs, registered voters in Brevard County,	In their complaint, plaintiffs challenged the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	the Middle District of Florida	U.S. Dist. LEXIS 20091		Florida, filed suit against defendants, members of several County Canvassing Boards and the Secretary of the Florida Department of State, challenging the constitutionality of Fla. Stat. Ann. § 102.166(4) (2000), before the court was plaintiffs' emergency motion for temporary restraining order and/or preliminary injunction.	constitutionality of § 102.166(4), asserting that the statute violated their rights under the Equal Protection and Due Process Clauses of U.S. Const. amend. XIV. Based on these claims, plaintiffs sought an order from the court stopping the manual recount of votes. The court found that plaintiffs had failed to set forth a valid basis for intervention by federal courts. They had not			

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					<p>alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. Moreover, plaintiffs had not established a likelihood of success on the merits of their claims. Plaintiffs' motion for temporary restraining order and/or preliminary injunction denied; plaintiffs had</p>			

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					not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote.			
Siegel v. LePore	United States District Court for the Southern District of Florida	120 F. Supp. 2d 1041; 2000 U.S. Dist. LEXIS 16333	November 13, 2000	Plaintiffs, individual Florida voters and Republican Party presidential and vice-presidential candidates, moved for a temporary restraining order and preliminary injunction to enjoin defendants, canvassing board members from four Florida	The court addressed who should consider plaintiffs' serious arguments that manual recounts would diminish the accuracy of vote counts due to ballot degradation and the exercise of discretion in determining	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				counties, from proceeding with manual recounts of election ballots.	voter intent. The court ruled that intervention by a federal district court, particularly on a preliminary basis, was inappropriate. A federal court should not interfere except where there was an immediate need to correct a constitutional violation. Plaintiffs neither demonstrated a clear deprivation of a constitutional injury or a fundamental unfairness in Florida's manual			

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					<p>recount provision. The recount provision was reasonable and non--discriminatory on its face and resided within the state's broad control over presidential election procedures. Plaintiffs failed to show that manual recounts were so unreliable as to constitute a constitutional injury, that plaintiffs' alleged injuries were irreparable, or that they lacked</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					an adequate state court remedy. Injunctive relief denied because plaintiffs demonstrated neither clear deprivation of constitutional injury or fundamental unfairness in Florida's manual recount provision to justify federal court interference in state election procedures.			
Gore v. Harris	Supreme Court of Florida	773 So. 2d 524; 2000 Fla. LEXIS 2474	December 22, 2000	In a contest to results of the 2000 presidential election in Florida, the United States Supreme Court	The state supreme court had ordered the trial court to conduct a manual recount	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>reversed and remanded a Florida Supreme Court decision that had ordered a manual recount of certain ballots.</p>	<p>of 9000 contested Miami--Dade County ballots, and also held that uncounted "undervotes" in all Florida counties were to be manually counted. The trial court was ordered to use the standard that a vote was "legal" if there was a clear indication of the intent of the voter. The United States Supreme Court released an opinion on December 12, 2000, which held that such a</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>standard violated equal protection rights because it lacked specific standards to ensure equal application, and also mandated that any manual recount would have to have been completed by December 12, 2000. On remand, the state supreme court found that it was impossible under that time frame to adopt adequate standards and make necessary evaluations of vote tabulation</p>			

014051

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					equipment. Also, development of a specific, uniform standard for manual recounts was best left to the legislature. Because adequate standards for a manual recount could not be developed by the deadline set by the United States Supreme Court, appellants were afforded no relief.			
Goodwin v. St. Thomas--St. John Bd. of Elections	Territorial Court of the Virgin Islands	43 V.I. 89; 2000 V.I. LEXIS 15	December 13, 2000	Plaintiff political candidate alleged that certain general election absentee ballots violated	Plaintiff alleged that defendants counted unlawful absentee ballots	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots.</p>	<p>that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>to establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Plaintiff's request for declaratory and injunctive relief was denied. Invalidation of absentee ballots was not required since the irregularities asserted by plaintiff involved ballots which were in fact valid, were not tabulated by defendants, or were insufficient to change the outcome of the election.			
Shannon v. Jacobowitz	United States Court of Appeals for the	394 F.3d 90; 2005 U.S. App. LEXIS	January 7, 2005	Plaintiffs, voters and an incumbent candidate, sued defendants, a challenger	Local election inspectors noticed a problem with a voting machine.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Second Circuit	259		<p>candidate, a county board of election, and commissioners, pursuant to § 1983 alleging violation of the Due Process Clause of the Fourteenth Amendment. The United States District Court for the Northern District of New York granted summary judgment in favor of plaintiffs. Defendants appealed.</p>	<p>Plaintiffs asserted that their votes were not counted due to the machine malfunction. Rather than pursue the state remedy of quo warranto, by requesting that New York's Attorney General investigate the machine malfunction and challenge the election results in state court, plaintiffs filed their complaint in federal court. The court of appeals found that United States Supreme</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Court jurisprudence required intentional conduct by state actors as a prerequisite for a due process violation. Neither side alleged that local officials acted intentionally or in a discriminatory manner with regard to the vote miscount. Both sides conceded that the recorded results were likely due to an unforeseen malfunction with the voting</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>machine. Because no conduct was alleged that would indicate an intentional deprivation of the right to vote, there was no cognizable federal due process claim. The proper remedy was to assert a quo warranto action to challenge the outcome of a general election based on an alleged voting machine malfunction. The district court's grant of summary judgment was</p>			

014059

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					reversed and its injunctions were vacated. The case was remanded for further proceedings consistent with this opinion.			
GEORGE W. BUSH v. PALM BEACH COUNTY CANVASSING BOARD, ET AL.	United States Supreme Court	531 U.S. 70; 121 S. Ct. 471; 148 L. Ed. 2d 366; 2000 U.S. LEXIS 8087	December 4, 2000	Appellant Republican presidential candidate's petition for writ of certiorari to the Florida supreme court was granted in a case involving interpretations of Fla. Stat. Ann. §§ 102.111, 102.112, in proceedings brought by appellees Democratic presidential candidate, county	The Supreme Court vacated the state court's judgment, finding that the state court opinion could be read to indicate that it construed the Florida Election Code without regard to the extent to which the Florida Constitution could, consistent with	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>canvassing boards, and Florida Democratic Party regarding authority of the boards and respondent Florida Secretary of State as to manual recounts of ballots and deadlines.</p>	<p>U.S. Const. art. II, § 1, cl. 2, circumscribe the legislative power. The judgment of the Florida Supreme Court was vacated and remanded for further proceedings. The court stated the judgment was unclear as to the extent to which the state court saw the Florida constitution as circumscribing the legislature's authority under Article II of the United States Constitution, and as to the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					consideration given the federal statute regarding state electors.			
Touchston v. McDermott	United States Court of Appeals for the Eleventh Circuit	234 F.3d 1130; 2000 U.S. App. LEXIS 29366	November 17, 2000	Plaintiff voters appealed from judgment of the United States District Court for the Middle District of Florida, which denied their emergency motion for an injunction pending appeal against defendant county election officials. Plaintiffs sought to enjoin defendants from conducting manual ballot recounts or to enjoin defendants from certifying results of the presidential	Plaintiff voters sought an emergency injunction pending appeal to enjoin defendant county election officials from conducting manual ballot recounts or to enjoin defendants from certifying the results of the Presidential election which contained any manual recounts. The district court	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				election that contained any manual recounts.	denied the emergency injunction and plaintiffs appealed. Upon review, the emergency motion for injunction pending appeal was denied without prejudice. Florida had adequate election dispute procedures, which had been invoked and were being implemented in the forms of administrative actions by state officials and actions in state court.			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Therefore, the state procedures were adequate to preserve for ultimate review in the United States Supreme Court any federal questions arising out of the state procedures. Moreover, plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would warrant granting the extraordinary remedy of an injunction pending appeal. Denial of</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>plaintiff's petition for emergency injunction pending appeal was affirmed. The state procedures were adequate to preserve any federal issue for review, and plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would have warranted granting the extraordinary remedy of the injunction.</p>			
Gore v. Harris	Supreme Court of Florida	772 So. 2d 1243; 2000 Fla.	December 8, 2000	The court of appeal certified as being of great	Appellants contested the certification of	No	N/A	No

014065

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 2373		public importance a trial court judgment that denied all relief requested by appellants, candidates for President and Vice President of the United States, in appellants' contest to certified election results.	their opponents as the winners of Florida's electoral votes. The Florida supreme court found no error in the trial court's holding that it was proper to certify election night returns from Nassau County rather than results of a machine recount. Nor did the trial court err in refusing to include votes that the Palm Beach County Canvassing Board found not to be legal votes during a manual			

014066

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					<p>recount. However, the trial court erred in excluding votes that were identified during the Palm Beach County manual recount and during a partial manual recount in Miami--Dade County. It was also error to refuse to examine Miami--Dade County ballots that registered as non--votes during the machine count. The trial court applied an improper standard to</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>determine whether appellants had established that the result of the election was in doubt, and improperly concluded that there was no probability of a different result without examining the ballots that appellants claimed contained rejected legal votes. The judgment was reversed and remanded; the trial court was ordered to tabulate by hand Miami-Dade</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>County ballots that the counting machine registered as non--votes, and was directed to order inclusion of votes that had already been identified during manual recounts. The trial court also was ordered to consider whether manual recounts in other counties were necessary.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Reitz v. Rendell	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21813	October 29, 2004	Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a voluntary agreement and submitted it to the court for approval.	The court issued an order to assure that the service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.			
United States v.	United States	2004 U.S.	October 20, 2004	Plaintiff United States sued	The testimony of the two witnesses	No	N/A	No

014071

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Pennsylvania	District Court for the Middle district of Pennsylvania	Dist. LEXIS 21167		defendant Commonwealth of Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so late in the election year.	offered by the United States did not support its contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern			

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					<p>regarding their ability or right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had adduced substantial evidence that the requested</p>			

014073

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					<p>injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. must consider the following four factors: (1) the likelihood that the applicant will prevail on the merits of the substantive claim; (2) the extent to which the moving party will be irreparably harmed in the absence of injunctive relief; (3) the extent to which</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the nonmoving party will suffer irreparable harm if the court grants the requested injunctive relief; and (4) the public interest. District courts should only grant injunctive relief after consideration of each of these factors. Motion for injunctive relief denied.			
Bush v. Hillsborough County Canvassing Bd.	United States District Court for the Northern District of Florida	123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265		The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state	Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>ballots and federal write--in ballots based on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p>	<p>write--in ballots based on criteria inconsistent with the Uniformed and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from</p>			

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					<p>outside the United States and requiring the state election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot</p>			

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					<p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and relief GRANTED in part and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p>			
Harris v. Florida	United States	122 F. Supp. 2d	December 9, 2000	Plaintiffs challenged the	In two separate cases, plaintiff	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Elections Canvassing Comm'n	District Court for the Northern District of Florida	1317; 2000 U.S. Dist. LEXIS 17875		counting of overseas absentee ballots received after 7 p.m. on election day, alleging the ballots violated Florida election law.	electors originally sued defendant state elections canvassing commission and state officials in Florida state circuit court, challenging the counting of overseas absentee ballots received after 7 p.m. on election day. Defendant governor removed one case to federal court. The second case was also removed. The court in the second case denied plaintiff's motion for remand and granted a motion to transfer the case to the first federal court under the related case			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>doctrine. Plaintiffs claimed that the overseas ballots violated Florida election law. Defendants argued the deadline was not absolute. The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did not intend to disenfranchise overseas voters. The court held the state statute was required to yield to Florida Administrative Code, which required the 10-day</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. Judgment entered for defendants because a Florida administrative rule requiring a 10--day extension in the receipt of overseas absentee ballots in federal elections was enacted to bring the state into compliance with a federally ordered mandate; plaintiffs were not entitled to relief under any provision of state or federal law.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Romeu v. Cohen	United States District Court for the Southern District of New York	121 F. Supp. 2d 264; 2000 U.S. Dist. LEXIS 12842	September 7, 2000	Plaintiff territorial resident and plaintiff--intervenor territorial governor moved for summary judgment and defendant federal, state, and local officials moved to dismiss the complaint that alleged that the Voting Rights Amendments of 1970, the Uniform Overseas Citizens Absentee Voting Act, and New York election law were unconstitutional since they denied plaintiff's right to receive an absentee ballot for the upcoming presidential election.	Plaintiff argued that the laws denied him the right to receive a state absentee ballot in violation of the right to vote, the right to travel, the Privileges and Immunities Clause, and the Equal Protection Clause. Plaintiff--intervenor territorial governor intervened on behalf of similarly situated Puerto Rican residents. Defendants' argued that: 1) plaintiff lacked standing; 2) a non--justiciable political question was raised; and 3) the laws were constitutional. The court held that: 1) plaintiff had	No	N/A	No

014082

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>standing because he made a substantial showing that application for the benefit was futile; 2) whether or not the statutes violated plaintiff's rights presented a legal, not political, question, and there was no lack of judicially discoverable and manageable standards for resolving the matter; and 3) the laws were constitutional and only a constitutional amendment or grant of statehood would enable plaintiff to vote in a presidential</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					election. The court granted defendants' motion to dismiss because the laws that prohibited territorial residents from voting by state absentee ballot in presidential elections were constitutional.			
Romeu v. Cohen	United States Court of Appeals for the Second Circuit	265 F.3d 118; 2001 U.S. App. LEXIS 19876	September 6, 2001	Plaintiff territorial resident sued defendants, state and federal officials, alleging that the Uniformed and Overseas Citizens Absentee Voting Act unconstitutionally prevented the territorial resident from voting in his former state of residence. The resident appealed	The territorial resident contended that the UOCAVA unconstitutionally distinguished between former state residents residing outside the United States, who were permitted to vote in their former states, and former state residents residing in a territory, who were not permitted to	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the judgment of the United States District Court for the Southern District of New York, which dismissed the complaint.</p>	<p>vote in their former states. The court of appeals first held that the UOCAVA did not violate the territorial resident's right to equal protection in view of the valid and not insubstantial considerations for the distinction. The territorial resident chose to reside in the territory and had the same voting rights as other territorial residents, even though such residency precluded voting for federal offices. Further, the resident had no constitutional right to vote in his former state after he terminated his</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					residency in such state, and the consequences of the choice of residency did not constitute an unconstitutional interference with the right to travel. Finally, there was no denial of the privileges and immunities of state citizenship, since the territorial resident was treated identically to other territorial residents. The judgment dismissing the territorial resident's complaint was affirmed.			
Igartua de la Rosa v. United States	United States District Court for the District of	107 F. Supp. 2d 140; 2000 U.S.	July 19, 2000	Defendant United States moved to dismiss plaintiffs' action seeking a declaratory	The court denied the motion of defendant United States to dismiss the action of	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Puerto Rico	Dist. LEXIS 11146		judgment allowing them to vote, as U.S. citizens residing in Puerto Rico, in the upcoming and all subsequent Presidential elections. Plaintiffs urged, among other claims, that their right to vote in Presidential elections was guaranteed by the Constitution and the International Covenant on Civil and Political Rights.	plaintiffs, two groups of Puerto Ricans, seeking a declaratory judgment allowing them to vote in Presidential elections. One group always resided in Puerto Rico and the other became ineligible to vote in Presidential elections upon taking up residence in Puerto Rico. Plaintiffs contended that the Constitution and the International Covenant on Civil and Political Rights, guaranteed their right to vote in Presidential elections and that			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the Uniformed and Overseas Citizens Absentee Voting Act, was unconstitutional in disallowing Puerto Rican citizens to vote by considering them to be within the United States. The court concluded that UOCAVA was constitutional under the rational basis test, and violation of the treaty did not give rise to privately enforceable rights. Nevertheless, the Constitution provided U.S. citizens residing in Puerto Rico the right to participate in Presidential</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>elections. No constitutional amendment was needed. The present political status of Puerto Rico was abhorrent to the Bill of Rights. The court denied defendant United States' motion to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote in Presidential elections as citizens of the United States and of Puerto Rico. The court held that the United States Constitution itself provided plaintiffs with the right to participate in Presidential</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					elections.			

014090

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
James v. Bartlett	Supreme Court of North Carolina	359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146	February 4, 2005	Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed.	The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots to be counted in state and local elections. The candidates failure to challenge the counting of out-of-precinct provisional ballots before the election did not render their action untimely. Reversed and remanded.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	387 F.3d 565; 2004 U.S. App. LEXIS 22320	October 26, 2004	Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast	The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p>	<p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p>			

014093

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted.</p> <p>Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					legal votes. Affirmed in part and reversed in part.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					under § 1983 to raise the federal-law claims. Affirmed.			
Fla. Democratic Party v. Hood	United States District Court for the Northern District of Florida	342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720	October 21, 2004	Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings.	The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise	No	N/A	No

014093

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					was cast in the proper precinct under State law.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss.	The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the	No	N/A	No

014101

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					even if the cost, in terms of uncounted ballots, was regrettable.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	386 F.3d 815; 2004 U.S. App. LEXIS 28765	October 23, 2004	Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements.	On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.			
Hawkins v. Blunt	United States District Court for the Western District of Missouri	2004 U.S. Dist. LEXIS 21512	October 12, 2004	In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved	The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				for summary judgment.	The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot, the voter would first be directed to his proper polling place.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551	October 13, 2004	Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal	The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>legislation. Defendants filed a motion to transfer venue.</p>	<p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a			

014110

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872	October 19, 2004	Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a	The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p>	<p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first--time voters who registered by mail were consistent with federal and state law.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
James v. Bartlett	Supreme Court of North Carolina	359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146	February 4, 2005	Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed.	The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots to be counted in state and local elections. The candidates failure to challenge the counting of out-of-precinct provisional ballots before the election did not render their action untimely. Reversed and remanded.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	387 F.3d 565; 2004 U.S. App. LEXIS 22320	October 26, 2004	Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast	The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42	No	N/A	No

014115

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p>	<p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted.</p> <p>Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					legal votes. Affirmed in part and reversed in part.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					under § 1983 to raise the federal-law claims. Affirmed.			
Fla. Democratic Party v. Hood	United States District Court for the Northern District of Florida	342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720	October 21, 2004	Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings.	The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise	No	N/A	No

014121

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					was cast in the proper precinct under State law.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss.	The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					even if the cost, in terms of uncounted ballots, was regrettable.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	386 F.3d 815; 2004 U.S. App. LEXIS 28765	October 23, 2004	Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements.	On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.			
Hawkins v. Blunt	United States District Court for the Western District of Missouri	2004 U.S. Dist. LEXIS 21512	October 12, 2004	In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved	The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements.	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				for summary judgment.	The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot, the voter would first be directed to his proper polling place.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551	October 13, 2004	Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal	The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				legislation. Defendants filed a motion to transfer venue.	venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices			

014132

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872	October 19, 2004	Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a	The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p>	<p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first-time voters who registered by mail were consistent with federal and state law.			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Weber v. Shelley	United States Court of Appeals for the Ninth Circuit	347 F.3d 1101; 2003 U.S. App. LEXIS 21979	October 28, 2003	Plaintiff voter brought an suit against defendants, the secretary of state and the county registrar of voters, claiming that the lack of a voter--verified paper trail in the county's newly installed touchscreen voting system violated her rights to equal protection and due process. The United States District Court for the Central District of California granted the	On review, the voter contended that use of paperless touch--screen voting systems was unconstitutional and that the trial court erred by ruling her expert testimony inadmissible. The trial court focused on whether the experts' declarations raised genuine issues of material fact about the relative accuracy of the voting systemat issue and excluded references to news--paper articles and unidentified studies absent any indication that	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				secretary and the registrar summary judgment. The voter appealed.	experts normally relied upon them. The appellate court found that the trial court's exclusions were not an abuse of discretion and agreed that the admissible opinions which were left did not tend to show that voters had a lesser chance of having their votes counted. It further found that the use of touchscreen voting systems was not subject to strict scrutiny simply because this particular balloting system might make the possibility of some kinds of fraud more difficult to detect. California			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					made a reasonable, politically neutral and non--discriminatory choice to certify touchscreen systems as an alternative to paper ballots, as did the county in deciding to use such a system. Nothing in the Constitution forbid this choice. The judgment was affirmed.			
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch-screen technology. Although it was not	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic (DRE) voting systems. One voter applied for a temporary restraining order, or, in the alternative, a preliminary injunction. of a preliminary injunction in a number of ways, including a four--part test that considers (1) likelihood of success on</p>	<p>disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be deprived of their fundamental right to vote. The Americans with Disabilities Act, did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made</p>			

014140

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the merits; (2) the possibility of irreparable injury in the absence of an injunction; (3) a balancing of the harms; and (4) the public interest.</p>	<p>accessible. Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters showed little likelihood of success on the merits. The</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. Ninth Circuit's tests for a preliminary injunction, although phrased differently, require a court to inquire into whether there exists a likelihood of success on the merits, and the possibility of irreparable injury; a court is also required to balance the hardships.			
Fla. Democratic Party v. Hood	Court of Appeal of Florida, First	884 So. 2d 1148; 2004 Fla. App.	October 28, 2004	Petitioner, the Florida Democratic Party, sought	The Party argued that: (1) the Florida Administrative Code, recast	No	N/A	No

014142

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	District	LEXIS 16077		review of an emergency rule adopted by the Florida Department of State, contending that the findings of immediate danger, necessity, and procedural fairness on which the rule was based were insufficient under Florida law, which required a showing of such circumstances, and Florida case law. This matter followed.	language from the earlier invalidated rule prohibiting a manual recount of overvotes and undervotes cast on a touchscreen machine; (2) the rule did not call for the manual recount of votes to determine voter intent; and (3) the rule created voters who were entitled to manual recounts in close elections and those who were not. The appeals court disagreed. The Department was clearly concerned with the fact that if no rule were in place, the same confusion and inconsistency in			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>divining a voter's intent that attended the 2000 presidential election in Florida, and the same constitutional problems the United States Supreme Court addressed then, might recur in 2004. It was not the court's responsibility to decide the validity of the rule or whether other means were more appropriate. But, the following question was certified to the Supreme Court: Whether under Fla. Stat. ch. 120.54(4), the Department of</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					State set forth sufficient justification for an emergency rule establishing standards for conducting manual recounts of overvotes and undervotes as applied to touchscreen voting systems? The petition was denied, but a question was certified to the supreme court as a matter of great public importance.			
Wexler v. Lepore	United States District Court for the Southern District of	342 F. Supp. 2d 1097; 2004 U.S. Dist. LEXIS 21344	October 25, 2004	Plaintiffs, a congressman, state commissioners, and a registered voter, brought	The officials claimed that the state had established an updated standard for manual recounts in counties using	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Florida			a § 1983 action against defendants, state officials, alleging that the manual recount procedures for the state's touchscreen paperless voting systems violated their rights under U.S. Const. amends. V and XIV. A bench trial ensued.	optical scan systems and touchscreen voting systems, therefore, alleviating equal protection concerns. The court held that the rules prescribing what constituted a clear indication on the ballot that the voter had made a definite choice, as well the rules prescribing additional recount procedures for each certified voting system promulgated pursuant to Florida law complied with equal protection requirements under U.S. Const. amends. V and XIV because the rules			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prescribed uniform, nondifferential standards for what constituted a legal vote under each certified voting system, as well as procedures for conducting a manual recount of overvotes and undervotes in the entire geographic jurisdiction. The court further held that the ballot images printed during a manual recount pursuant to Florida Administrative Code did not violate Florida law because the manual recount scheme properly reflected a voter's choice.</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Judgment was entered for the officials. The claims of the congressman, commissioners, and voter were denied.			

014148

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Spencer v. Blackwell	United States District Court for the Southern District of Ohio	347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062	November 1, 2004	Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls.	The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. The court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day.</p>			
MARIAN SPENCER, et al., Petitioners v. CLARA PUGH, et al.	United States Supreme Court	125 S. Ct. 305; 160 L. Ed. 2d 213;	November 2, 2004	In two separate actions, plaintiffs sued defendant members of a political party,	Plaintiffs contended that the members planned to send numerous challengers to	No	N/A	No

014151

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
(No. 04A360) SUMMIT COUNTY DEMOCRATIC CENTRAL and EXECUTIVE COMMITTEE, et al., Petitioners v. MATTHEW HEIDER, et al. (No. 04A364)		2004 U.S. LEXIS 7400		alleging that the members planned to mount indiscriminate challenges in polling places which would disrupt voting. Plaintiffs applied to vacate orders entered by the United States Court of Appeals for the Sixth Circuit which entered emergency stays of injunctions restricting the members' activities.	polling places in predominantly African--American neighborhoods to challenge votes in an imminent national election, which would allegedly cause voter intimidation and inordinate delays in voting. A district court ordered challengers to stay out of polling places, and another district court ordered challengers to remain in the polling places only as witnesses, but the appellate court stayed the orders. The United States Supreme Court, acting through a			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					single Circuit Justice, declined to reinstate the injunctions for prudential reasons, despite the few hours left until the upcoming election. While the allegations of abuse were serious, it was not possible to determine with any certainty the ultimate validity of the plaintiffs' claims or for the full Supreme Court to review the relevant submissions, and voting officials would be available to enable proper voting by qualified voters.			
Charles H. Wesley Educ.	United States	324 F. Supp. 2d	July 1, 2004	Plaintiffs, a voter, fraternity members,	The organization participated in	No	N/A	No

014153

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Found., Inc. v. Cox	District Court for the Northern District of Georgia	1358; 2004 U.S. Dist. LEXIS 12120		and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV.	numerous non--partisan voter registration drives primarily designed to increase the voting strength of African--Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Injunction granted.			
Jacksonville Coalition for Voter Prot. v. Hood	United States District Court for the Middle District of Florida	351 F. Supp. 2d 1326; 2004 U.S. Dist. LEXIS 26522	October 25, 2004	Plaintiffs, voter protection coalition, union, and voters, filed an emergency motion for a preliminary injunction and argued that African Americans in the county had less opportunity than other members of the state's electorate to vote in the upcoming election, and that defendants, elections officials',	The coalition, the union, and the voters based their claim on the fact that the county had the largest percentage of African--American registered voters of any major county in the state, and, yet, other similarly-sized counties with smaller African--American registered voter percentages had more early voting sites. Based	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>implementation of early voting procedures violated the Voting Rights Act and their constitutional rights.</p>	<p>on that, they argued that African-- American voters in the county were disproportionately affected. The court found that while it may have been true that having to drive to an early voting site and having to wait in line may cause people to be inconvenienced, inconvenience did not result in a denial of meaningful access to the political process. Thus, the coalition, the union, and the voters had not established a likelihood of success on the merits of their claim that the county's</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					implementation of early voting procedures violated § 2 of the Voting Rights Act. Moreover, the coalition, the union, and the voters failed to establish a likelihood of success on the merits of their § 1983 Fourteenth and Fifteenth Amendment claims, which required a higher proof of discriminatory purpose and effect. Injunction denied.			
Taylor v. Howe	United States Court of Appeals for the Eighth Circuit	225 F.3d 993; 2000 U.S. App. LEXIS 22241	August 31, 2000	Plaintiffs, African American voters, poll watchers, and candidates appealed from a judgment of the United States	The court of appeals affirmed--in--part, reversed--in--part, and remanded the district court's judgment. The court found that the	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>District Court for the Eastern District of Arkansas in favor of defendants, elections commissioners and related individuals, on their § 1983 voting rights claims and contended the district court made erroneous findings of fact and law and failed to appreciate evidence of discriminatory intent.</p>	<p>district court's finding of a lack of intentional discrimination was appropriate as to many defendants. However, as to some of the individual voters' claims for damages, the court held "a definite and firm conviction" that the district court's findings were mistaken. The court noted that the argument that a voter's name was misspelled in the voter register, with a single incorrect letter, was a flimsy pretext and, accordingly, held that the district court's finding that</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					defendant poll workers did not racially discriminate in denying the vote to this plaintiff was clearly erroneous. Affirmed in part and reversed in part.			
Stewart v. Blackwell	United States District Court for the Northern District of Ohio	356 F. Supp. 2d 791; 2004 U.S. Dist. LEXIS 26897	December 14, 2004	Plaintiffs, including African--American voters, alleged that use of punch card voting and "central-count" optical scanning devices by defendants, the Ohio Secretary of State et al., violated their rights under the Due Process Clause, the Equal Protection Clause, and (African--American plaintiffs) their rights under § 2 of the Voting Rights	The primary thrust of the litigation was an attempt to federalize elections by judicial rule or fiat via the invitation to the court to declare a certain voting technology unconstitutional and then fashion a remedy. The court declined the invitation. The determination of the applicable voting process had always been focused in the	No	N/A	No

014160

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Act.	<p>legislative branch of the government. While it was true that the percentage of residual or non-voted ballots in the 2000 presidential election ran slightly higher in counties using punch card technology, that fact standing alone was insufficient to declare the use of the system unconstitutional. Moreover, the highest frequency in Ohio of residual voting bore a direct relationship to economic and educational factors, negating the Voting Rights Act claim. The court further stated that local</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					variety in voting technology did not violate the Equal Protection Clause, even if the different technologies had different levels of effectiveness in recording voters' intentions, so long as there was some rational basis for the technology choice. It concluded that defendants' cost and security reasons for the use of punch card ballots were plausible.			
Taylor v. Currie	United States District Court for the Eastern District of Michigan	386 F. Supp. 2d 929; 2005 U.S. Dist. LEXIS 20257	September 14, 2005	Plaintiff brought an action against defendants, including a city elections commission, alleging defects in a city council	This action involved issues pertaining to absentee ballots. Plaintiff alleged that defendants were not complying with state laws requiring certain eligibility	No	N/A	No

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>primary election pertaining to absentee balloting. The case was removed to federal court by defendants. Pending before the court was a motion to remand, filed by plaintiff.</p>	<p>checks before issuing absentee ballots. The state court issued an injunction preventing defendants from mailing absentee ballots. Defendants removed the action to federal court and plaintiff sought a remand. Defendants argued that not mailing the absentee ballots would violate the Voting Rights Act, because it would place a restriction only on the City of Detroit, which was predominately African--American. The court ordered the case remanded because it found no</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>basis under 28 U.S.C.S. §§ 1441 or 1443 for federal jurisdiction. Defendants' mere reference to a federal law or federal right was not enough to confer subject matter jurisdiction where the complaint sought to assert only rights arising under state statutes against state officials in relation to a state election. The court stated that it would not allow defendants to take haven in federal court under the guise of providing equal protection for the citizens of Detroit but with a</p>			

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					goal of perpetuating their violation of a non-discriminatory state law. Motion to remand granted.			

014165

Methodology for Case Review

In order to properly identify all applicable cases the consultants first developed an extensive word search term list. A West Law search was performed and the first one hundred cases under each word search term were then gathered in individual files. This resulted in a total of approximately 44,000 cases. Most of these cases were federal as opposed to state and appellate as opposed to trial.

Consultant Serebrov analyzed the cases in each file to determine if they were on point. If he found that the first twenty cases were inapplicable, Serebrov would sample forty to fifty other file cases at random to determine applicability. If the entire file did not yield any cases, the file would be discarded. All discarded word search terms were recorded in a separate file. Likewise, if the file only yielded a few applicable cases, it would also be discarded. However, if a small but significant number of cases were on point, the file was later charted.

The results of the case search were stark because relatively few applicable cases were found. Consultant Serebrov recommends that a selective regional, state district court search be preformed in the second phase of this project

014168
091710

**Rough Summary of Department of Justice, Public Integrity Section Activities,
October 2002-January 2006**

014167

Prosecutions and Convictions-- Individuals

Noncitizen voting: 20
Vote buying: 49
Double voting: 12
Registration fraud: 13
Civil Rights: 4
Voter Intimidation: 2
Unclear: 1

Open Investigations (note: a few cases overlap with prosecutions and convictions)

Noncitizen voting: 3
Vote buying: 25
Double voting: 15
Registration fraud: 29
Absentee ballot fraud: 9
Official: 8
Ineligibles: 4
Deceptive Practices: 1
Civil Rights: 14
Intimidation: 6
Other: 2

Cases and Investigations Closed for Lack of Evidence

Civil Rights: 8
Official: 12
Registration Fraud: 12
Absentee Ballot Fraud: 14
Ineligible Voting: 3
Intimidation: 8
Double Voting: 5
Ballot Box Stuffing: 1
Vote Buying: 14
Ballot/machine tampering: 2
Other: 8
Unclear: 3

014167

Major Vote Buying Cases Summary

Between 2001 and 2006, allegations and convictions for vote buying and conspiracies to buy votes were concentrated in three states: Illinois, West Virginia and Kentucky.

In East St. Louis, Illinois, nine individuals, including a former city council member and the head of the local Democratic Party, Charles Powell, Jr., were convicted or pled guilty to vote buying and conspiracy to commit election fraud during the 2004 general election. The government's conspiracy case was almost entirely based on taped conversations in which the defendants discussed buying votes for \$5 and whether this would be adequate. Federal prosecutors alleged that the vote buying was financed with \$79,000 transferred from the County Democratic Party shortly before the election, although county officials have not been charged. Four defendants were convicted of purchasing or offering to purchase at least one vote directly, while Democratic Party chairman was only convicted of conspiracy.¹ Earlier, three precinct officials and one precinct worker pled guilty to buying votes for \$5 or \$10 in that same election.²

Eastern Kentucky has witnessed a series of vote buying cases over the last several years. The most recent revolved around Ross Harris, a Pike County political fundraiser and coal executive, and his associate Loren Glenn Turner. Harris and Turner were convicted in September 2004 of vote buying, mail fraud, and several other counts.³ Prosecutors alleged Harris and Turner conspired to buy votes and provided the necessary funds in an unsuccessful 2002 bid for Pike County district judge by former State Senator Doug Hays. Harris supplied nearly \$40,000, Turner laundered the money through straw contributors, and the cash was then disbursed in the form of \$50 checks ostensibly for 'vote hauling', the legal practice of paying campaign workers to get voters to the polls which is notorious as a cover for buying votes.⁴ Harris attempted to influence the race on behalf of Hays in order to get revenge on Hays' opponent for a personal matter.⁵

A grand jury initially indicted 10 individuals in connection with the Harris and Turner case, including Hays and his wife, and six campaign workers. Of the remaining defendants, only one, Tom Varney, also a witness in the Hays case, pled guilty. The others were either acquitted of vote buying charges or had vote buying charges dropped.⁶ Prosecutors have announced that their investigation continues into others tied to Harris and may produce further indictments.

The Harris case follows a series of trials related to the 1998 Knott County Democratic primary. Between 2003 and 2004, 10 individuals were indicted on vote buying charges, including a winning candidate in those primaries, Knott County judge-executive Donnie Newsome, who was reelected in 2002. In 2004 Newsome and a supporter were sent to jail and fined. Five other

¹ "Five convicted in federal vote-fraud trial" Associated Press, June 30, 2005; "Powell gets 21 months" Belleville News-Democrat, March 1, 2006.

² "Four Plead Guilty To Vote-Buying Cash Was Allegedly Supplied By St. Clair Democratic Machine" Belleville News-Democrat, March 23, 2005.

³ "2 found guilty in pike county vote-fraud case; Two-year sentences possible," Lexington Herald Leader, September 17, 2004.

⁴ "Jury weighing vote-fraud case," Lexington Herald Leader, September 16, 2004.

⁵ "Pike Election Trial Goes To Jury" Lexington Herald Leader, January 1, 2006.

⁶ "Former state senator acquitted of vote buying," Lexington Herald Leader, November 2, 2004.

defendants pled guilty to vote buying charges, and three were acquitted. The primary means of vote buying entailed purchasing absentee votes from elderly, infirm, illiterate or poor voters, usually for between \$50 and \$100. This resulted in an abnormally high number of absentee ballots in the primary.⁷ Indictments relating to that same 1998 primary were also brought in 1999, when 6 individuals were indicted for buying the votes of students at a small local college. Five of those indicted were convicted or pled guilty.⁸

Absentee vote buying was also an issue in 2002, when federal prosecutors opened an investigation in Kentucky's Clay County after an abnormal number of absentee ballots were filed in the primary and the sheriff halted absentee voting twice over concerns.⁹ Officials received hundreds of complaints of vote-buying during the 2002 primary, and state investigators performed follow up investigations in a number of counties, including Knott, Bell, Floyd, Pike, and Maginoff.¹⁰ No indictments have been produced so far.

So far, relatively few incidents of vote-buying have been substantially identified or investigated in the 2004 election. Two instances of vote buying in local 2004 elections have been brought before a grand jury. In one, a Casey County man was indicted for purchasing votes in a local school board race with cash and whiskey.¹¹ In the second, the grand jury chose not to indict an individual accused of offering to purchase a teenager's vote on a local proposal with beer.¹²

An extensive vote buying conspiracy has also been uncovered in southern **West Virginia**. The federal probe, which handed down its first indictment in 2003, has yielded more than a dozen guilty pleas to charges of vote buying and conspiracy in elections since the late 1980s. As this area is almost exclusively dominated by the Democratic Party, vote-buying occurred largely during primary contests.

The first phase of the probe focused on Logan County residents, where vote buying charges were brought in relation to elections in 1996, 2000, 2002 and 2004. In an extraordinary tactic, the FBI planted the former mayor of Logan City, Tom Esposito, as a candidate in a state legislative race. Esposito's cooperation led to guilty pleas from the Logan County Clerk, who pled guilty to selling his vote to Esposito in 1996,¹³ and another man who took money from Esposito for the purpose of vote buying in 2004.¹⁴

Guilty pleas were also obtained in connection with former county sheriff Johnny Mendez, who pled guilty to buying votes in two primary elections in order to elect candidates including

⁷ "Knott County, KY., Judge Executive sentenced on vote-buying conspiracy charges," Department of Justice, March 16, 2004.

⁸ "6 men accused of vote fraud in '98 Knott primary; Charges include vote buying and lying to FBI"

⁹ "Election 2002: ABSENTEE BALLOTING; State attorney general's office investigates voting records in some counties" The Courier-Journal, November 7, 2002.

¹⁰ "Election 2002: Kentucky; VOTE FRAUD; Investigators monitor 17 counties across state" The Courier-Journal, November 6, 2002.

¹¹ "Jury finds man guilty on vote-buying charges" Associated Press, November 11, 2005.

¹² "Man in beer vote case files suit" The Cincinnati Enquirer, March 17, 2005.

¹³ "Two plead to vote fraud; Logan clerk sold vote; politician tried to buy votes" Charleston Gazette, December 14, 2005.

¹⁴ "Logan man gets probation in vote-fraud scandal" Charleston Gazette, March 1, 2006.

himself. In 2000, with a large amount of funding from a prominent local lawyer seeking to influence a state delegate election for his wife, Mendez distributed around \$10,000 in payments to voters of \$10 to \$100. Then, in the 2004 primary, Mendez distributed around \$2,000 before his arrest.¹⁵ A deputy of Mendez', the former Logan police chief, also pled guilty to a count of vote buying in 2002.¹⁶

Prosecutors focusing on neighboring Lincoln County have alleged a long-standing vote-buying conspiracy extending back to the late 1980s. The probe identified Lincoln County Circuit Clerk Greg Stowers as head of a Democratic Party faction which routinely bought votes in order to maintain office. Stowers pled guilty in December 2005 to distributing around \$7,000 to buy votes in the 2004 primary. The Lincoln County Assessor, and Stowers' longtime political ally, Jerry Allen Weaver, also pled guilty to conspiracy to buy votes.¹⁷ These were accompanied by four other guilty pleas from party workers for vote buying in primaries. While most specific charges focused on vote buying in the 2004 primary, defendants also admitted buying votes as far back as the 1988, 1990, and 1992 primaries.

The leading conspirators would give party workers candidate slates and cash, which workers would then take to the polling place and use to purchase votes for amounts between \$10 and \$40 and in one instance, for liquor. Voters would be handed the slate of chosen candidates, and would then be paid upon exiting the polling place. In other cases, the elected officials in question purchased votes in exchange for non-cash rewards, including patronage positions, fixed tickets, favorable tax assessments, and home improvements.¹⁸

The West Virginia probe is ongoing, as prosecutors are scrutinizing others implicated during the proceedings so far, including a sitting state delegate, who may be under scrutiny for vote buying in a 1990 election, and one of the Lincoln county defendants who previously had vote buying charges against him dropped.¹⁹

¹⁵ "Mendez confined to home for year Ex-Logan sheriff was convicted of buying votes" Charleston Gazette, January 22, 2005.

¹⁶ "Ex-Logan police sentenced for buying votes" Associated Press, February 15, 2005.

¹⁷ "Clerk says he engaged in vote buying" Charleston Gazette, December 30, 2005.

¹⁸ "Lincoln clerk, two others plead guilty to election fraud" Charleston Daily Mail, December 30, 2005.

¹⁹ "Next phase pondered in federal vote-buying probe" Associated Press, January 1, 2006.

Case Summaries

After reviewing over 40,000 cases, the majority of which came from appeals courts, I have found comparatively very few which are applicable to this study. Of those that are applicable, no apparent thematic pattern emerges. However, it seems that the greatest areas of fraud and intimidation have shifted from past patterns of stealing votes to present problems with voter registration, voter identification, the proper delivery and counting of absentee and overseas ballots, provisional voting, vote buying, and challenges to felon eligibility. But because so few cases provided a picture of these current problems, I suggest that case research for the second phase of this project concentrate on state trial-level decisions.

Job Serebrov
May 2006

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Powers v. Donahue	Supreme Court of New York, Appellate Division, First Department	276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644	December 5, 2000	Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names.	When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted.	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed.			
Goodwin v. St. Thomas--	Territorial Court of the	43 V.I. 89; 2000	December 13, 2000	Plaintiff political	Plaintiff alleged that defendants	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
St. John Bd. of Elections	Virgin Islands	V.I. LEXIS 15		candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results	counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to			

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				tabulated without such ballots.	establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot			

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					<p>envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.</p>			
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala. LEXIS	December 9, 2005	The circuit court	The voters and the incumbent all	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		214		<p>overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross-- appealed. In the meantime, the trial court stayed enforcement of its judgment pending</p>	<p>challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				resolution of the appeal.	their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed.			
Gross v. Albany County Bd. of Elections	Supreme Court of New York, Appellate Division, Third Department	10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y. App. Div. LEXIS	August 23, 2004	Appellant candidates appealed from a judgment entered by the supreme court, which partially	The candidates argued that the Board violated a federal court order regarding the election. The appellate court	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		10360		<p>granted the candidates' petition challenging the method used by respondent Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County Legislator, 26th and 29th Districts, in a special general election required by the federal courts.</p>	<p>held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>identify their physician on their applications. A ballot was properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.			
Erlandson v. Kiffmeyer	Supreme Court of Minnesota	659 N.W.2d 724; 2003 Minn. LEXIS 196	April 17, 2003	Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief	The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican Party. The instant court granted review.</p>	<p>nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot.			
People v. Deganutti	Appellate Court of Illinois, First District, Third Division	348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill. App.	May 12, 2004	Defendant appealed from a judgment of the circuit court, which convicted	Defendant went to the voters' homes and obtained their signatures on absentee ballot	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 518		defendant on charges of unlawful observation of voting and on charges of absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters.	request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re--punch a number that had not			

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					<p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p>			

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					and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed.			
Jacobs v. Seminole County Canvassing Bd.	Supreme Court	773 So. 2d 519; 2000 Fla. LEXIS 2404	December 12, 2000	In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require	Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in Seminole County in the 2000 presidential election.</p>	<p>Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the</p>			

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					<p>ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the</p>			

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					other party's forms. Affirmed.			
Gross v. Albany County Bd. of Elections	Court of Appeals of New York	3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412	October 14, 2004	Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters.	Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p>			

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					<p>court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors." Affirmed.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election	Supreme Court of Pennsylvania	577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431	March 8, 2004	A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain	The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				candidates and voters.	that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non--disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third--person hand--delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in--person delivery			

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					would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.			
In re Canvass of	Commonwealth Court of	839 A.2d 451; 2003	December 22, 2003	The Allegheny County	On appeal, the issue was whether	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Absentee Ballots of November 4, 2003	Pennsylvania	Pa. Commw. LEXIS 963		Elections Board did not allow 74 challenged third--party hand--delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order.	non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory			

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					<p>requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken.</p>			
United States v. Pennsylvania	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21167	October 20, 2004	Plaintiff United States sued defendant Commonwealth of	The testimony of the two witnesses offered by the United States did not support its	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so</p>	<p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p>			

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				late in the election year.	right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had			

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					adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied.			
Hoblock v. Albany County Bd. of Elections	United States District Court for the Northern District of New York	341 F. Supp. 2d 169; 2004 U.S. Dist. LEXIS 21326	October 25, 2004	Plaintiffs, candidates and voters, sued defendant, the Albany County, New York,	An election for members of the Albany County Legislature had been enjoined, and special	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Board of Elections, under § 1983, claiming that the Board violated plaintiffs' Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction.</p>	<p>primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots</p>			

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					<p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p>			

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					<p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p>			

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					Board from certifying winners of the election was granted.			
Griffin v. Roupas	United States Court of Appeals for the Seventh Circuit	385 F.3d 1128; 2004 U.S. App. LEXIS 21476	October 15, 2004	In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District	The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim.</p>	<p>problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois</p>			

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					<p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p>			

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					applied to everyone. Affirmed.			
Reitz v. Rendell	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21813	October 29, 2004	Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a	The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee	No	N/A	No

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				voluntary agreement and submitted it to the court for approval.	ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against			

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					the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.			
Bush v. Hillsborough County Canvassing Bd.	United States District Court for the Northern District of Florida	123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265	December 8, 2000	The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based	Plaintiff presidential and vise--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed	No	N/A	No

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				<p>on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p>	<p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p>			

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					election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot			

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					<p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p>			
Kolb v.	Supreme Court	270	March 17,	Both petitioner	Both petitioner	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Casella	of New York, Appellate Division, Fourth Department	A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483	2000	and respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election.	and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter			

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					<p>registration card signature----and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee</p>			

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					ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.			
People v. Woods	Court of Appeals of Michigan	241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156	June 27, 2000	Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to	Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				pursue the interlocutory appeal, in a criminal action alleging violations of election laws.	fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary			

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					<p>elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to</p>			

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					violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense.			
Harris v. Florida Elections Canvassing Comm'n	United States District Court for the Northern District of Florida	122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875	December 9, 2000	Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the	The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				ballots violated Florida law.	not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982.			
Weldon v. Berks County Dep't of Election Servs.	United States District Court for the Eastern District of Pennsylvania	2004 U.S. Dist. LEXIS 21948	November 1, 2004	Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary	The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p>	<p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p>			

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					<p>county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8.</p> <p>OVERVIEW: The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were</p>			

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					<p>submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions</p>			

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					concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction.			
Qualkinbush v. Skubisz	Court of Appeals of Illinois, First District	822 N.E.2d 38; 2004 Ill. App. LEXIS 1546	December 28, 2004	Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court	Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and	No	N/A	No

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Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				declared petitioner mayor.	violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that			

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Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters. Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots. The Election Code did not violate equal protection principles, as the burden placed</p>			

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Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.			
Panio v. Sunderland	Supreme Court of New York, Appellate Division, Second Department	14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433	January 25, 2005	In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of	The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by:	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent Democratic candidate cross-- appealed.</p>	<p>(1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count</p>			

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Absentee Balloting Cases

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					<p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					equivalent of an application for a special ballot. Order modified and judgment affirmed.			
Pierce v. Allegheny County Bd. of Elections	United States District Court for the Western District of Pennsylvania	324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569	November 13, 2003	Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third--party absentee ballot delivery, require the set aside of all absentee third--party delivered ballots in connection with the November 2003 election, prohibit those	Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction.	regarding whether the absentee ballot provision requiring hand-delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies.			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state</p>			

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Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court by virtue of the state court's concurrent jurisdiction.			
Friedman v. Snipes	United States District Court for the Southern District of Florida	345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739	November 9, 2004	Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters	The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of §	No	N/A	No

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Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction.</p>	<p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Preliminary injunction denied.			

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Rogelio Mejorada-Lopez	Alaska	05-CR-074	December 5, 2005	Mejorada-Lopez, a Mexican citizen, completed several voter registration applications to register to vote in Alaska and voted in the 2000, 2002, and 2004 general elections. He was charged with three counts of voting by a non-citizen in violation of 18 U.S.C. section 611 and pled guilty. Mejorada-Lopez was sentenced to probation for	No	N/A	No

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				one year.			
United States v. Shah	Colorado	1:04-CR-00458	March 1, 2005	Shah was indicted on two counts of providing false information concerning United States citizenship in order to register to vote in violation of 18 U.S.C. section 911 and 1015(f). Shah was convicted on both counts.	No	N/A	No
United States v. Mohsin Ali	Northern Florida	4:05-CR-47	January 17, 2006	A misdemeanor was filed against Ali charging him with voting by a non-citizen of 18 U.S.C. section 611. Trial was set for January 17, 2006	No	N/A	Yes-need information on the outcome of the trial.

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Chaudhary	Northern Florida	4:04-CR-00059	May 18, 2005	Chaudhary was indicted for misuse of a social security number in violation of 42 U.S.C. section 408 and for making a false claim of United States citizenship on a 2002 driver's license application in violation of 18 U.S.C. section 911. A superceding indictment was returned, charging Chaudhary with falsely claiming United States citizenship on a driver's license	No	N/A	No

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				application and on the accompanying voter registration application. He was convicted of the false citizenship claim on his voter registration application.			
United States v. Velasquez	Southern Florida	1:03-CR-20233	September 9, 2003	Velasquez, a former 1996 and 1998 candidate for the Florida legislature, was indicted on charges of misrepresenting United States citizenship in connection with voting and for making false statements	No	N/A	No

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				to the Immigration and Naturalization Service, in violation of 18 U.S.C. section 911, 1015(f) and 1001. Velasquez was convicted on two counts of making false statements on his naturalization application to the INS concerning his voting history.			
United States v. McKenzie; United States v. Francois; United States v. Exavier; United States v. Lloyd Palmer; United	Southern Florida	0:04-CR-60160; 1:04-CR-20488; 0:04-CR-60161; 0:04-CR-60159;	July 15, 2004	Fifteen non-citizens were charged with voting in various elections beginning in 1998 in	No	N/A	No

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
States v. Velrine Palmer; United states v. Shivdayal; United States v. Rickman; United States v. Knight; United States v. Sweeting; United States v. Lubin; United States v. Bennett; United States v. O'Neil; United States v. Torres-Perez; United States v. Phillip; United States v. Bain Knight		0:04-CR-60162; 0:04-CR-60164; 1:04-CR-20491; 1:04-CR-20490; 1:04-CR-20489; 0:04-CR-60163; 1:04-CR-14048; 0:04-CR-60165; 2:04-CR-14046; 9:04-CR-80103; 2:04-CR-14047		violation of 18 U.S.C. section 611. Four of the defendants were also charged with making false citizenship claims in violation of 18 U.S.C. sections 911 or 1015(f). Ten defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government.			
United States v. Brooks	Southern Illinois	3:03-CR-30201	February 12, 2004	East St. Louis election official Leander Brooks was indicted for	No	N/A	No

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				submitting fraudulent ballots in the 2002 general election in violation of 42 U.S.C. section 1973i(c), 1973i(e), 1973gg-10(2)(B), and 18 U.S.C. sections 241 and 371. Brooks pled guilty to all charges.			
United States v. Scott; United States v. Nichols; United States v. Terrance Stith; United States v. Sandra Stith; United States v. Powell, et al.	Southern Illinois	3:05-CR-30040; 3:05-CR-30041; 3:05-CR-30042; 3:05-CR-30043; 3:05-CR-30044	June 29, 2005	Four Democrat precinct committeemen in East St. Louis were charged with vote buying on the 2004 general election in violation of 42 U.S.C.	No	N/A	No

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>section 1973i(c). All four pled guilty. Also indicted were four additional Democrat committeemen, Charles Powell, Jr., Jesse Lewis, Sheila Thomas, Kelvin Ellis, and one precinct worker, Yvette Johnson, on conspiracy and vote buying charges in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). All five defendants were convicted. Kelvin Ellis</p>			

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				also pled guilty to one count of 18 U.S.C. section 1512(c)(2) relative to a scheme to kill one of the trial witnesses and two counts of 18 U.S.C. section 1503 relative to directing two other witnesses to refuse to testify before the grand jury.			
United States v. McIntosh	Kansas	2:04-CR-20142	December 20, 2004	A felony information was filed against lawyer Leslie McIntosh for voting in both Wyandotte County, Kansas and Jackson	No	N/A	No

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				County, Missouri, in the general elections of 2000 and 2002 in violation of 42 U.S.C. section 1973i(e). A superseding misdemeanor information was filed, charging McIntosh with causing the deprivation of constitutional rights in violation of 18 U.S.C. section 242, to which the defendant pled guilty.			
United States v. Conley; United States v. Slone; United States v.	Eastern Kentucky	7:03-CR-00013; 7:03-CR-00014;	March 28, 2003 and April 24, 2003	Ten people were indicted on vote buying charges in	No	N/A	No

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Madden; United States v. Slone et al.; United States v. Calhoun; United States v. Johnson; United States v. Newsome, et al.		7:03-CR-00015; 7:03-CR-00016; 7:03-CR-00017; 7:03-CR-00018; 7:03-CR-00019		connection with the 1998 primary election in Knott County, Kentucky, in violation of 42 U.S.C. section 1973i(c). Five of the defendants pled guilty, two were convicted, and three were acquitted.			
United States v. Hays, et al.	Eastern Kentucky	7:03-CR-00011	March 7, 2003	Ten defendants were indicted for conspiracy and vote buying for a local judge in Pike County, Kentucky, in the 2002 general election, in violation of 42 U.S.C. section	No	N/A	No

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				1973i(c) and 18 U.S.C. section 371. Five defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government.			
United States v. Turner, et al.	Eastern Kentucky	3:05-CR-00002	May 5, 2005	Three defendants were indicted for vote buying and mail fraud in connection with the 2000 elections in Knott, Letcher, Floyd, and Breathitt Counties, Kentucky, in violation of 42	No	N/A	Yes-need update on case status.

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				U.S.C. section 1973i(c) and 18 U.S.C. section 341.			
United States v. Braud	Middle Louisiana	3:03-CR-00019	May 2, 2003	Tyrell Mathews Braud was indicted on three counts of making false declarations to a grand jury in connection with his 2002 fabrication of eleven voter registration applications, in violation of 18 U.S.C. section 1623. Braud pled guilty on all counts.	No	N/A	No
United States v. Thibodeaux	Western Louisiana	6:03-CR-60055	April 12, 2005	St. Martinsville City Councilwoman Pamela C. Thibodeaux was indicted on	No	N/A	No

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				two counts of conspiring to submit false voter registration information, in violation of 18 U.S.C. section 371 and 42 U.S.C. section 1973i(c). She pled guilty to both charges.			
United States v. Scherzer; United States v. Goodrich; United States v. Jones; United States v. Martin	Western Missouri	4:04-CR-00401; 4:04-CR-00402; 4:05-CR-00257; 4:05-CR-00258	January 7, 2005; March 28, 2005; September 8, 2005; October 13, 2005	Two misdemeanor informations were filed charging Lorraine Goodrich and James Scherzer, Kansas residents who voted in the 2000 and 2002 general elections on	No	N/A	No

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>both Johnson County, Kansas and in Kansas City, Missouri. The informations charged deprivation of a constitutional right by causing spurious ballots, in violation of 18 U.S.C. sections 242 and 2. Both pled guilty. Additionally, similar misdemeanor informations were filed against Tammy J. Martin, who voted in both Independence and Kansas City, Missouri</p>			

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				in the 2004 general election and Brandon E. Jones, who voted both in Raytown and Kansas City, Missouri in the 2004 general election. Both pled guilty.			
United States v. Raymond; United States v. McGee; United States v. Tobin; United States v. Hansen	New Hampshire	04-CR-00141; 04-CR-00146; 04-CR-00216; 04-CR-00054	December 15, 2005	Two informations were filed charging Allen Raymond, former president of a Virginia-based political consulting firm called GOP Marketplace, and Charles McGee, former executive director of the New	No	N/A	No

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Hampshire State Republican Committee, with conspiracy to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. The charges stem from a scheme to block the phone lines used by two Manchester organizations to arrange drives to the polls during the 2002 general election. Both</p>			

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>pled guilty. James Tobin, former New England Regional Director of the Republican National Committee, was indicted on charges of conspiring to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. section 371 and 47 U.S.C. section 223. An information was filed charging Shaun Hansen, the principal of an</p>			

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Idaho telemarketing firm called MILO Enterprises which placed the harassing calls, with conspiracy and aiding and abetting telephone harassment, in violation of 18 U.S.C. section 371 and 2 and 47 U.S.C. section 223. The information against Hansen was dismissed upon motion of the government. A superseding indictment was returned</p>			

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Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>against Tobin charging conspiracy to impede the constitutional right to vote for federal candidates, in violation of 18 U.S.C. section 241 and conspiracy to make harassing telephone calls in violation of 47 U.S.C. section 223. Tobin was convicted of one count of conspiracy to commit telephone harassment and one count of aiding and abetting of telephone</p>			

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				harassment.			
United States v. Workman	Western North Carolina	1:03-CR-00038	June 30, 2003	A ten-count indictment was returned charging Joshua Workman, a Canadian citizen, with voting and related offenses in the 200 and 2002 primary and general elections in Avery County, North Carolina, in violation of 18 U.S.C. sections 611, 911, 1001, and 1015(f). Workman pled guilty to providing false information to election officials and to	No	N/A	No

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DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				a federal agency.			
United States v. Shatley, et al.	Western North Carolina	5:03-CR-00035	May 14, 2004	A nine-count indictment was returned charging Wayne Shatley, Anita Moore, Valerie Moore, Carlos "Sunshine" Hood and Ross "Toogie" Banner with conspiracy and vote buying in the Caldwell County 2002 general election, in violation of 42 U.S.C. section 1973i(c) and 18 U.S.C. section 371. Anita and Valerie Moore pled guilty. Shatley, Hood,	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				and Banner were all convicted.			
United States v. Vargas	South Dakota	05-CR-50085	December 22, 2005	An indictment was filed against Rudolph Vargas, for voting more than once at Pine Ridge in the 2002 general election in violation of 42 U.S.C. section 1973i(e). Vargas pled guilty.	No	N/A	No
United States v. Wells; United States v. Mendez; United States v. Porter; United States v. Hrutkay; United States v. Porter; United States v.	Southern West Virginia	02-CR-00234; 2:04-CR-00101; 2:04-CR-00145; 2:04-CR-00149; 2:04-CR-	July 22, 2003; July 19, 2004; December 7, 2004; January 7, 2005; March 21, 2005;	Danny Ray Wells, Logan County, West Virginia, magistrate, was indicted and charged with violating 18 U.S.C. section	No	N/A	No

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EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Stapleton; United States v. Thomas E. Esposito; United States v. Nagy; United States v. Adkins; United States v. Harvey		00173; 2:05-CR-00002; 05-CR-00019; 05-CR-00148; 05-CR-00161	October 11, 2005; December 13, 2005	1962. Wells was found guilty. A felony indictment was filed against Logan County sheriff Johnny Mendez for conspiracy to defraud the United States in violation 18 U.S.C section 371. Mendez pled guilty. An information was filed charging former Logan County police chief Alvin Ray Porter, Jr., with making expenditures to influence voting in violation of 18 U.S.C. section			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>597. Porter pled guilty. Logan County attorney Mark Oliver Hrutkay was charged by information with mail fraud in violation of 18 U.S.C. section 1341. Hrutkay pled guilty. Earnest Stapleton, commander of the local VFW, was charged by information with mail fraud. He pled guilty. An information was filed charging Thomas E. Esposito, a former mayor of the City of</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Logan, with concealing the commission of a felony, in violation of 18 U.S.C. section 4. Esposito pled guilty. John Wesley Nagy, Logan County Court marshall, pled guilty to making false statements to a federal agent, a violation of 18 U.S.C. section 1001. An information charging Glen Dale Adkins, county clerk of Logan County, with accepting payment for voting, in violation of 18</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				U.S.C. section 1973i(c). Adkins pled guilty. Perry French Harvey, Jr., a retired UMW official, pled guilty to involvement in a conspiracy to buy votes.			
United States v. Adkins, et al.	Southern West Virginia	2:04-CR-00162	December 28 & 30, 2005	Jackie Adkins was indicted for vote buying in Lincoln County, West Virginia, in violation of 42 U.S.C. section 1973i(c). A superceding indictment added Wandell "Rocky" Adkins to the indictment and charged both defendants with	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>conspiracy to buy votes in violation of 18 U.S.C. section 371 and vote buying. A second superseding indictment was returned which added three additional defendants, Gegory Brent Stowers, Clifford Odell "Groundhog" Vance, and Toney "Zeke" Dingess, to the conspiracy and vote buying indictment. Charges were later dismissed against Jackie Adkins. A third superseding</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>indictment was returned adding two additional defendants, Jerry Allen Weaver and Ralph Dale Adkins. A superseding information was filed charging Vance with expenditures to influence voting, in violation of 18 U.S.C. section 597. Vance pled guilty. Superseding informations were filed against Stowers and Dingess for expenditures to influence voting, in</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				violation of 18 U.S.C. section 597. Both defendants pled guilty. Weaver also pled guilty. Superseding informations were filed against Ralph and Wandell Adkins for expenditures to influence voting, in violation of 18 U.S.C. section 597. Both defendants pled guilty.			
United States v. Davis; United States v. Byas; United States v. Ocasio; United States v. Prude; United States v.	Eastern Wisconsin	2:05-MJ-00454; 2:05-MJ-00455; 2:05-CR-00161; 2:05-CR-	September 16, 2005; September 21, 2005; October 5, 2005; October 26,	Criminal complaints were issued against Brian L. Davis and Theresa J. Byas charging them	No	N/A	Need updated status on Gooden and the Anderson, Cox, Edwards, and Little cases.

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Sanders; United States v. Alicea; United States v. Brooks; United States v. Hamilton; United States v. Little; United States v. Swift; United States v. Anderson; United States v. Cox; United States v. Edwards; United States v. Gooden		00162; 2:05-CR-00163; 2:05-CR-00168; 2:05-CR-00170; 2:05-CR-00171; 2:05-CR-00172; 2:05-CR-00177; 2:05-CR-00207; 2:05-CR-00209; 2:05-CR-00211; 2:05-CR-00212	2005; October 31, 2005, November 10, 2005	with double voting, in violation of 42 U.S.C. section 1973i(e). Indictments were filed against convicted felons Milo R. Ocasio and Kimberly Prude, charging them with falsely certifying that they were eligible to vote, in violation of 42 U.S.C. section 1973gg-10(2)(B), and against Enrique C. Sanders, charging him with multiple voting, in			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				violation of 42 U.S.C. section 1973i(e). Five more indictments were later returned charging Cynthia C. Alicea with multiple voting in violation of 42 U.S.C. section 1973i(e) and convicted felons Deshawn B. Brooks, Alexander T. Hamilton, Derek G. Little, and Eric L. Swift with falsely certifying that they were eligible to vote			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>in violation of 42 U.S.C. section 1973gg-10(2)(B). Indictments were filed against Davis and Byas charging them with double voting. Four more indictments were returned charging convicted felons Ethel M. Anderson, Jiyto L. Cox, Correan F. Edwards, and Joseph J. Gooden with falsely certifying that they were eligible to vote.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Ocasio and Hamilton pled guilty. Prude was found guilty. A mistrial was declared in the Sanders case. Brooks was acquitted. Byas signed a plea agreement agreeing to plead to a misdemeanor 18 U.S.C. section 242 charge. Swift moved to change his plea. Davis was found incompetent to stand trial so the government dismissed the case. Gooden is a fugitive.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
DOJ Cases

Name of Case	District	Case Number	Date	Facts	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Alicea was acquitted. Four cases are pending --- Anderson, Cox, Edwards, and Little.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				the alternative, a preliminary injunction.	deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible.			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied.			
Am. Ass'n of People with Disabilities v. Hood	United States District Court for the Middle District of Florida	310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615	March 24, 2004	Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida	The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p>	<p>voters. The voters were unable to vote using the system without third-party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non--disabled voters.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting system would</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the voters.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Troiano v. Lepore	United States District Court for the Southern District of Florida	2003 U.S. Dist. LEXIS 25850	November 3, 2003	Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary judgment.	The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow things down	No	N/A	No

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also failed to state</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have audio</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.			
Troiano v. Supervisor of Elections	United States Court of Appeals for the Eleventh Circuit	382 F.3d 1276; 2004 U.S. App. LEXIS 18497	September 1, 2004	Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in voting booths	The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The appellate court	No	N/A	No

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Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p>	<p>agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio components</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the accessible</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed.			
Am. Ass'n of People with Disabilities v. Smith	United States District Court for the Middle District of Florida	227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373	October 16, 2002	Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state and local	Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In order to vote,	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p>	<p>the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined with the federal</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the court could not</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs asserted that</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed.	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.</p>			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>violations of the Voting Rights Act. The parties filed cross--motions for summary judgment.</p>	<p>schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>minorities; as a result, minorities were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.			
Farrakhan v. Washington	United States Court of Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p>	<p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim.			
Muntaqim v. Coombe	United States Court of Appeals for the Second Circuit	366 F.3d 102; 2004 U.S. App. LEXIS 8077	April 23, 2004	Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation	At issue was whether the VRA could be applied to N.Y. Elec. Law§ 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				of § 2 of the Voting Rights Act of 1965.	New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p>			

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					district court's judgment was affirmed.			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	353 F.3d 1287; 2003 U.S. App. LEXIS 25859	December 19, 2003	Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.	The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a	No	N/A	No

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					<p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p>			

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					<p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p>			

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					violation of federal voting laws and remanded the matter to the district court for further proceedings.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court	No	N/A	No

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					<p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p>			

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					<p>authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.</p>			
Johnson v. Governor of	United States Court of	405 F.3d 1214;	April 12, 2005	Plaintiff individuals sued	The individuals argued that the	No	N/A	No

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Fla.	Appeals for the Eleventh Circuit	2005 U.S. App. LEXIS 5945		defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.	racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial			

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					<p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p>			

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					permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw.	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief	Petitioner convicted felons were presently or had formerly been confined in state	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 534		as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights.	prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners'			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since</p>			

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					incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.			
Rosello v. Calderon	United States District Court for the District of Puerto Rico	2004 U.S. Dist. LEXIS 27216	November 30, 2004	Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the	The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>invalidity of absentee and split ballots in a gubernatorial election.</p>	<p>same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal constitutions. The</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law pursuant to federal</p>			

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					guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.			
Woodruff v. Wyoming	United States Court of Appeals for the Tenth Circuit	49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060	October 7, 2002	Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10-106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon which relief could	The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing fee or filed a	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				be granted and as frivolous.	motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who heard their cases.			

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					The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed.			
N.J. State Conf.--NAACP v. Harvey	Superior Court of New Jersey, Appellate Division	381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316	November 2, 2005	The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4--1(8) on the ground that it denied	The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey discriminated	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>African--Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.</p>	<p>against African-Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting. Moreover, those</p>			

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					convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed.			
King v. City of Boston	United States District Court for the District of Massachusetts	2004 U.S. Dist. LEXIS 8421	May 13, 2004	Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which	The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>excluded incarcerated felons from voting while they were imprisoned.</p>	<p>not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices</p>			

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					<p>were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional</p>			

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					rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.			
Southwest Voter Registration Educ. Project v. Shelley	United States District Court for the Central District of California	278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413	August 15, 2003	Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be conducted without use of punch--card	Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch-card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the votes on the basis of race, in violation	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				machines.	of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if plaintiffs could show disparate			

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					<p>treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with plaintiffs' ex parte application for</p>			

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					temporary restraining order) was denied.			
Igartua--de la Rosa v. United States	United States Court of Appeals for the First Circuit	417 F.3d 145; 2005 U.S. App. LEXIS 15944	August 3, 2005	Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States.	The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were not, but were voting for electors.	No	N/A	No

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Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.</p>			

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Madden	United States Court of Appeals for the Sixth Circuit	403 F.3d 347; 2005 U.S. App. LEXIS 5326	April 4, 2005	Defendant appealed his conviction for violating the federal vote--buying statute. He also appealed the sentence imposed by the United States District Court for the Eastern District of Kentucky at Pikeville. The district court applied the U.S. Sentencing Guidelines Manual (Guidelines) § 3B1.1(c) supervisory--role	Defendant paid three people to vote for a local candidate in a primary election. The same ballot contained candidates for the U.S. Senate. While he waived his right to appeal his conviction, he nonetheless asserted two arguments in seeking to avoid the waiver. He first posited that the vote buying statute prohibited only buying votes for federal candidates----a prohibition not	No	N/A	No

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Vote Buying Cases

Deliberative Process
Privilege

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				enhancement and increased defendant's base offense level by two levels.	violated by his conduct. In the alternative, he stated if the statute did criminalize buying votes for state or local candidates, then the statute was unconstitutional. Both arguments failed. Defendant argued that applying the supervisory--role enhancement constituted impermissible double counting because the supervision he exercised was no more than necessary to			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					establish a vote-buying offense. That argument also failed. Defendant next argued that the district court erred by applying the vulnerable-victim enhancement under U.S. Sentencing Guidelines Manual § 3A1.1(b)(1). He acknowledged that he knew the mentally ill people who sold their votes were vulnerable, but maintained they were not victims because they received \$50 for			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>their votes. The vote sellers were not victims for Guidelines purposes. The district court erred. Defendant's appeal of conviction was dismissed. Defendant's sentence was vacated, and the case was remanded for resentencing.</p>			
United States v. Slone	United States Court of Appeals for the Sixth Circuit	411 F.3d 643; 2005 U.S. App. LEXIS 10137	June 3, 2005	Defendant pled guilty to vote buying in a federal election. The United States District Court for the Eastern District of	Defendant offered to pay voters for voting in a primary election. Defendant claimed that the vote buying statute did not apply to him	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Kentucky sentenced defendant to 10 months in custody and recommended that the sentence be served at an institution that could accommodate defendant's medical needs. Defendant appealed his conviction and sentence.</p>	<p>because his conduct related solely to a candidate for a county office. Alternatively, defendant asserted that the statute was unconstitutional because it exceeded Congress' enumerated powers. Finally, defendant argued that the district court erred when it failed to consider his medical condition as a ground for a downward departure at sentencing. The</p>			

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					<p>appellate court found that the vote buying statute applied to all elections in which a federal candidate was on the ballot, and the government need not prove that defendant intended to affect the federal component of the election by his corrupt practices. The facts admitted by defendant at his guilty-plea hearing established all of the essential elements of an</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					offense. The Elections Clause and the Necessary and Proper Clause combined to provide Congress with the power to regulate mixed federal and state elections even when federal candidates were running unopposed. There was no error in the district court's decision on departure under U.S. Sentencing Guidelines Manual § 5H1.4. Defendant's conviction and			

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					sentence were affirmed.			
United States v. Smith	United States Court of Appeals for the Sixth Circuit	139 Fed. Appx. 681; 2005 U.S. App. LEXIS 14855	July 18, 2005	Defendants were convicted of vote buying and conspiracy to buy votes. The United States District Court for the Eastern District of Kentucky entered judgment on the jury verdict and sentenced defendants. Defendants appealed.	One of the defendants was a state representative who decided to run for an elected position. Defendants worked together and with others to buy votes. During defendants' trial, in addition to testimony regarding vote buying, evidence was introduced that two witnesses had been threatened. The appellate court found that defendants	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>failed to show evidence of prejudice with regard to denial of the motion for severance. Threat evidence was not excludable under Fed. R. Evid. 404(b) because it was admissible to show consciousness of guilt without any inference as to the character of defendants. Admission of witnesses' testimony was proper because each witness testified that he or she was approached by a</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>member of the conspiracy and offered money for his or her vote. The remaining incarcerated defendant's challenges to his sentence had merit because individuals who sold their votes were not "victims" for the purposes of U.S. Sentencing Guidelines Manual § 3A1.1. Furthermore, application of U.S. Sentencing Guidelines Manual § 3B1.1(b) violated</p>			

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					<p>defendant's Sixth Amendment rights because it was based on facts that defendant did not admit or proved to the jury beyond a reasonable doubt. Defendants' convictions were affirmed. The remaining incarcerated defendant's sentence was vacated and his case was remanded for resentencing in accordance with Booker.</p>			
Nugent v. Phelps	Court of Appeal of	816 So. 2d 349; 2002	April 23, 2002	Plaintiff incumbent	The incumbent argued that: (1)	No	N/A	No

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Louisiana, Second Circuit	La. App. LEXIS 1138		police chief sued defendant challenger, the winning candidate, to have the election nullified and a new election held based on numerous irregularities and unlawful activities by the challenger and his supporters. The challenger won the election by a margin of four votes. At the end of the incumbent's	the number of persons who were bribed for their votes by the challenger's worker was sufficient to change the outcome of the election; (2) the trial judge failed to inform potential witnesses that they could be given immunity from prosecution for bribery of voters if they came forth with truthful testimony; (3) the votes of three of his ardent supporters			

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>case, the district court for the dismissed his suit. The incumbent appealed.</p>	<p>should have been counted because they were incarcerated for the sole purpose of keeping them from campaigning and voting; and (4) the district attorney, a strong supporter of the challenger, abused his power when he subpoenaed the incumbent to appear before the grand jury a week preceding the election. The appellate court held no more than two votes would be</p>			

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					<p>subtracted, a difference that would be insufficient to change the election result or make it impossible to determine. The appellate court found the trial judge read the immunity portion of the statute to the potential witnesses. The appellate court found the arrests of the three supporters were the result of grand jury indictments, and there was no manifest error in holding that the</p>			

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					incumbent failed to prove a scheme by the district attorney. The judgment of the trial court was affirmed.			
Eason v. State	Court of Appeals of Mississippi	2005 Miss. App. LEXIS 1017	December 13, 2005	Defendant appealed a decision of circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud.	Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant would drive the voters to the clerk's office	No	N/A	No

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Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the argument arose because, while the prosecutor's closing</p>			

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Vote Buying Cases

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					<p>argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial.</p> <p>Furthermore, the trial judge did not abuse his discretion when he did not allow defendant</p>			

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					to ask the individual whether she wanted to see defendant go to prison because the individual's potential bias was shown by the individual's testimony that she expected the prosecution to recommend her sentence. The court affirmed defendant's conviction.			
United States v. Turner	United States District Court for the Eastern District of Kentucky	2005 U.S. Dist. LEXIS 31709	November 30, 2005	Defendants were charged with committing mail fraud and conspiracy to commit mail fraud and	Defendants argued that recusal was mandated by 28 U.S.C.S. § 455(a) and (b)(1). The court found no merit in defendants'	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>vote--buying. First defendant filed a motion to recuse. Second defendant's motion to join the motion to recuse was granted. First defendant moved to compel the Government to grant testimonial use immunity to second defendant and moved to sever defendants.</p>	<p>arguments. The fact that the judge's husband was the commissioner of the Kentucky Department of Environmental Protection, a position to which he was appointed by the Republican Governor, was not relevant. The judge's husband was neither a party nor a witness. The court further concluded that no reasonable person could find that the judge's spouse had any direct</p>			

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					interest in the instant action. As for issue of money donated by the judge's husband to Republican opponents of first defendant, the court could not discern any reason why such facts warranted recusal. First defendant asserted that second defendant should have been granted use immunity based on a belief that second defendant would testify that first defendant did			

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					<p>not agree to, possess knowledge of, engage in, or otherwise participate in any of the illegal activity alleged in the indictment. The court found the summary of expected testimony to be too general to grant immunity. In addition, it was far from clear whether the court had the power to grant testimonial use immunity to second defendant. Defendants' motion to recuse</p>			

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Vote Buying Cases

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					was denied. First defendant's motions to compel and to sever were denied.			

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Ways v. Shively	Supreme Court of Nebraska	264 Neb. 250; 646 N.W.2d 621; 2002 Neb. LEXIS 158	July 5, 2002	Appellant felon filed a writ of mandamus, which sought to compel appellee Election Commissioner of Lancaster County, Nebraska, to permit him to register to vote. The District Court for Lancaster County denied the felon's petition for writ of mandamus and dismissed the petition. The felon appealed.	The felon was discharged from the Nebraska State Penitentiary in June 1998 after completing his sentences for the crimes of pandering, carrying a concealed weapon and attempting to possess a controlled substance. The commissioner asserted that as a result of the felon's conviction, the sentence for which had neither been reversed nor annulled, he had lost his right to vote. The commissioner contended that the	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>only method by which the felon's right to vote could be restored was through a warrant of discharge issued by the Nebraska Board of Pardons-- -a warrant of discharge had not been issued. The supreme court ruled that the certificate of discharge issued to the felon upon his release did not restore his right to vote. The supreme court ruled that as a matter of law, the specific right to vote was not restored to the felon upon his discharge from incarceration at the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					completion of his sentences. The judgment was affirmed.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court declared the disenfranchisement	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the authority under</p>			

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative</p>			

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					authority.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw. LEXIS 534	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights.	Petitioner convicted felons were presently or had formerly been confined in state prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.			
NAACP Philadelphia	United States District Court	2000 U.S.	August 14, 2000	Plaintiffs moved for a preliminary	Plaintiffs, ex--felon,	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Branch v. Ridge	for the Eastern District of Pennsylvania	Dist. LEXIS 11520		injunction, which the parties agreed to consolidate with the merits determination for a permanent injunction, in plaintiffs' civil rights suit contending that the Pennsylvania Voter Registration Act, offended the Equal Protection Clause of U.S. Const. amend. XIV.	unincorporated association, and others, filed a civil rights suit against defendant state and local officials, contending that the Pennsylvania Voter Registration Act, violated the Equal Protection Clause by prohibiting some ex--felons from voting during the five year period following their release from prison, while permitting other ex--felons to vote. Plaintiffs conceded that one plaintiff lacked standing, and the court assumed the remaining			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>plaintiffs had standing. The court found that all that all three of the special circumstances necessary to invoke the Pullman doctrine were present in the case, but found that abstention was not appropriate under the circumstances since it did not agree with plaintiffs' contention that the time constraints caused by the upcoming election meant that the option of pursuing their claims in state court did not offer plaintiffs an adequate remedy.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Plaintiff's motion for permanent injunction denied; the court abstained from deciding merits of plaintiffs' claims under the Pullman doctrine because all three of the special circumstances necessary to invoke the doctrine were present in the case; all further proceedings stayed until further order.			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations of the Voting Rights Act. The parties filed cross-motions for	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				summary judgment.	right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of minorities; as a result, minorities were under--represented in			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new constitutional problem, allowing disenfranchisement of white</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.			
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence</p>			

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					<p>that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.			
King v. City of Boston	United States District Court for the District of Massachusetts	2004 U.S. Dist. LEXIS 8421	May 13, 2004	Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned.	The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional rights. The court found the statute at issue to be constitutional and denied the inmate's</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					motion for summary judgment.			
Hayden v. Pataki	United States District Court for the Southern District of New York	2004 U.S. Dist. LEXIS 10863	June 14, 2004	In a 42 U.S.C.S. § 1983 action filed by plaintiffs, black and latino convicted felons, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) were unconstitutional, defendants, New York's governor and the chairperson of the board of elections, moved for judgment on the pleadings under Fed. R. Civ. P. 12(c).	The felons sued defendants, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) unlawfully denied suffrage to incarcerated and paroled felons on account of their race. The court granted defendants' motion for judgment on the pleadings on the felons' claims under U.S. Const. amend. XIV, XV because their factual allegations were insufficient from which to draw an inference	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>that the challenged provisions or their predecessors were enacted with discriminatory intent, and because denying suffrage to those who received more severe punishments, such as a term of incarceration, and not to those who received a lesser punishment, such as probation, was not arbitrary. The felons' claims under 42 U.S.C.S. § 1973 were dismissed because § 1973 could not be used to challenge the legality of N.Y. Elec. Law § 5--106. Defendants'</p>			

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					<p>motion was granted as to the felons' claims under 42 U.S.C.S. § 1971 because § 1971 did not provide for a private right of action, and because the felons were not "otherwise qualified to vote." The court also granted defendants' motion on the felons' U.S. Const. amend. I claim because it did not guarantee a felon the right to vote. Defendants' motion for judgment on the pleadings was granted in the felons' § 1983</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					action.			
Farrakhan v. Washington	United States Court for Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised. The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that	No	N/A	No

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					<p>the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					claim.			
In re Phillips	Supreme Court of Virginia	265 Va. 81; 574 S.E.2d 270; 2003 Va. LEXIS 10	January 10, 2003	The circuit court, entered a judgment in which it declined to consider petitioner former felon's petition for approval of her request to seek restoration of her eligibility to register to vote. The former felon appealed.	More than five years earlier, the former felon was convicted of the felony of making a false written statement incident to a firearm purchase. She then petitioned the trial court asking it to approve her request to seek restoration of her eligibility to register to vote. Her request was based on Va. Code Ann. § 53.1--231.2, allowing persons convicted of non--violent felonies to petition a trial court for approval of a request to seek	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					restoration of voting rights. The trial court declined. It found that Va. Code Ann. § 53.1--231.2 violated constitutional separation of powers principles since it gave the trial court powers belonging to the governor. It also found that even if the statute was constitutional, it was fundamentally flawed for not providing notice to respondent Commonwealth regarding a petition. After the petition was denied, the state supreme court			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>found the separation of powers principles were not violated since the statute only allowed the trial court to determine if an applicant met the requirements to have voting eligibility restored. It also found the statute was not fundamentally flawed since the Commonwealth was not an interested party entitled to notice. OUTCOME: The judgment was reversed and the case was remanded for further proceedings.</p>			
Howard v.	United States	2000	February	Appellant	Appellant was	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Gilmore	Court of Appeals for the Fourth Circuit	U.S. App. LEXIS 2680	23, 2000	challenged the United States District Court for the Eastern District of Virginia's order summarily dismissing his complaint, related to his inability to vote as a convicted felon, for failure to state a claim upon which relief can be granted.	disenfranchised by the Commonwealth of Virginia following his felony conviction. He challenged that decision by suing the Commonwealth under the U.S. Const. amends. I, XIV, XV, XIX, and XXIV, and under the Voting Rights Act of 1965. The lower court summarily dismissed his complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Appellant challenged. The court found U.S. Const. amend. I			

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					<p>created no private right of action for seeking reinstatement of previously canceled voting rights, U.S. Const. amends. XIV, XV, XIX, and the VRA required either gender or race discrimination, neither of which appellant asserted, and the U.S. Const. amend. XXIV, while prohibiting the imposition of poll taxes, did not prohibit the imposition of a \$10 fee for reinstatement of appellant's civil rights, including the right to vote. Consequently,</p>			

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					<p>appellant failed to state a claim. The court affirmed, finding that none of the constitutional provisions appellant relied on were properly pled because appellant failed to assert that either his race or gender were involved in the decisions to deny him the vote. Conditioning reestablishment of his civil rights on a \$10 fee was not unconstitutional.</p>			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	353 F.3d 1287; 2003 U.S. App. LEXIS	December 19, 2003	Plaintiffs, ex-felon citizens of Florida, on their own right and on behalf of others, sought review of a	The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		25859		<p>decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.</p>	<p>constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court found that the claim under the Voting Rights Act, also needed to be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					behind the Florida disenfranchisement provisions, in violation of the Voting Rights Act. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for violation of federal voting laws and remanded the matter to the district court for further proceedings.			
State v. Black	Court of	2002	September	In 1997, petitioner	The appellate	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Appeals of Tennessee	Tenn. App. LEXIS 696	26, 2002	was convicted of forgery and sentenced to the penitentiary for two years, but was immediately placed on probation. He subsequently petitioned the circuit court for restoration of citizenship. The trial court restored his citizenship rights. The State appealed. The appellate court issued its opinion, but granted the State's motions to supplement the record and to rehear its decision.	court's original opinion found that petitioner had not lost his right to hold public office because Tennessee law removed that right only from convicted felons who were "sentenced to the penitentiary." The trial court's amended judgment made it clear that petitioner was in fact sentenced to the penitentiary. Based upon this correction to the record, the appellate court found that petitioner's sentence to the penitentiary resulted in the			

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					forfeiture of his right to seek and hold public office by operation of Tenn. Code Ann. § 40-20--114. However, the appellate court concluded that this new information did not requires a different outcome on the merits of the issue of restoration of his citizenship rights, including the right to seek and hold public office. The appellate court adhered to its conclusion that the statutory presumption in favor of the restoration was not overcome by a			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					showing, by a preponderance of the evidence, of good cause to deny the petition for restoration of citizenship rights. The appellate court affirmed the restoration of petitioner's right to vote and reversed the denial of his right to seek and hold public office. His full rights of citizenship were restored.			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	405 F.3d 1214; 2005 U.S. App. LEXIS 5945	April 12, 2005	Plaintiff individuals sued defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const.	The individuals argued that the racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>art. VI, § 4 (1968), violated the Equal Protection Clause and 42 U.S.C.S. § 1973. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.</p>	<p>operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that 42 U.S.C.S. § 1973 applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment permitted the state to maintain. In addition, the legislative history indicated that Congress never</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Jenkins v. Williamson-Butler	Court of Appeal of Louisiana, Fourth Circuit	883 So. 2d 537; 2004 La. App. LEXIS 2433	October 8, 2004	Petitioner, a candidate for a parish juvenile court judgeship, failed to qualify for a runoff election. She filed suit against defendant, the clerk of criminal court for the parish seeking a new election, based on grounds of substantial irregularities. The district court ruled in favor of the candidate	The trial court found that the voting machines were not put into service until two, four, and, in many instances, eight hours after the statutorily mandated starting hour which constituted serious irregularities so as to deprive voters from freely expressing their will. It was impossible to determine the number of voters that were affected by the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				and ordered the holding of a restricted citywide election. The clerk appealed.	late start up or late arrival of voting machines, making it impossible to determine the result. The appellate court agreed that the irregularities were so serious that the trial court's voiding the election and calling a new election was the proper remedy. Judgment affirmed.			
Hester v. McKeithen	Court of Appeal of Louisiana, Fourth Circuit	882 So. 2d 1291; 2004 La. App. LEXIS 2429	October 8, 2004	Petitioner, school board candidate, filed suit against defendants, Louisiana	The candidate argued that the trial court erred in not setting aside the election, even after	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Secretary of State and district court clerk, contesting the school board election results. The trial court rendered judgment against the candidate, finding no basis for the election to be declared void. The candidate appealed.	acknowledging in its reasons for judgment numerous irregularities with the election process. The appellate court ruled that had the irregularities not occurred the outcome would have been exactly the same. Judgment affirmed.			
In re Election Contest of Democratic Primary Election	Supreme Court of Ohio	88 Ohio St. 3d 258; 2000 Ohio 325; 725 N.E.2d 271; 2000 Ohio	March 29, 2000	Appellant sought review of the judgment of the court of common	Appellant contended that an election irregularity occurred when the board failed	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Held May 4, 1999		LEXIS 607		pleas denying his election contest challenging an opponent's nomination for election irregularity.	to meet and act by majority vote on another candidate's withdrawal, instead permitting its employees to make decisions. Appellant had to prove by clear and convincing evidence that one or more election irregularities occurred and it affected enough votes to change or make uncertain the result of the election. Judgment affirmed. The appellant did			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					not establish election irregularity by the board's actions on the candidate's withdrawal, the board acted diligently and exercised its discretion in keeping the candidate's name on the ballot and notifying electors of his withdrawal.			
In re Election Contest As to Watertown Special Referendum Election	Supreme Court of South Dakota	2001 SD 62; 628 N.W.2d 336; 2001 S.D. LEXIS 66	May 23, 2001	Appellant sought review of the judgment of the circuit court declaring a local election valid and	The burden was on appellants to show not only that voting irregularities occurred, but also show that those irregularities	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				declining to order a new election.	were so egregious that the will of the voters was suppressed. Appellants did not meet their burden, as mere inconvenience or delay in voting was not enough to overturn the election. Judgment affirmed.			
Jones v. Jessup	Supreme Court of Georgia	279 Ga. 531; 615 S.E.2d 529; 2005 Ga. LEXIS 447	June 30, 2005	Defendant incumbent appealed a judgment by the trial court that invalidated an election for the position of sheriff and	After the candidate lost the sheriff's election to the incumbent, he contested the election, asserting that there were sufficient irregularities to	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>ordered that a new election be held based on plaintiff candidate's election contest.</p>	<p>place in doubt the election results. The state supreme court held that the candidate failed to prove substantial error in the votes cast by the witnesses adduced at the hearing who voted at the election. Although the candidate's evidence reflected the presence of some irregularities, not every irregularity invalidated the vote. The absentee ballots</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were only to be rejected where the electors failed to furnish required information. Because the ballots cast by the witnesses substantially complied with all of the essential requirements of the form, the trial court erred by finding that they should not have been considered. The candidate failed to establish substantial error in the votes. Judgment reversed.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Toliver v. Thompson	Supreme Court of Oklahoma	2000 OK 98; 17 P.3d 464; 2000 Okla. LEXIS 101	December 21, 2000	Petitioner challenged an order of the district court denying his motion to compel a recount of votes from an election.	The court held a recount of votes cast in an election could occur when the ballots had been preserved in the manner prescribed by statute. The trial court noted when the ballots had not been preserved in such a manner, no recount would be conducted. The court further noted a petition alleging irregularities in an election could be based upon an allegation that	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>it was impossible to determine with mathematical certainty which candidate was entitled to be issued a certificate of election. The Oklahoma supreme court held petitioner failed to show that the actual votes counted in the election were tainted with irregularity, and similarly failed to show a statutory right to a new election based upon a failure to preserve the</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots. Judgment affirmed.			
Adkins v. Huckabay	Supreme Court of Louisiana	755 So. 2d 206; 2000 La. LEXIS 504	February 25, 2000	Plaintiff candidate challenged judgment of court of appeal, second circuit, which reversed the lower court's judgment and declared defendant candidate winner of a runoff election for sheriff.	The issue presented for the appellate court's determination was whether the absentee voting irregularities plaintiff candidate complained of rendered it impossible to determine the outcome of the election for sheriff. The Louisiana supreme court concluded that the lower court had applied the correct	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					standard, substantial compliance, to the election irregularities, but had erred in its application by concluding that the contested absentee ballots substantially complied with the statutory requirements. The supreme court found that in applying substantial compliance to five of the ballot irregularities, the trial court correctly vacated the general election			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					and set it aside because those absentee ballots should have been disqualified. Because of the constitutional guarantee to secrecy of the ballot and the fact that the margin of victory in the runoff election was three votes, it was impossible to determine the result of the runoff election. Thus, the supreme court ordered a new general election. Judgment of the			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court of appeals reversed.			
In re Gray--Sadler	Supreme Court of New Jersey	164 N.J. 468; 753 A.2d 1101; 2000 N.J. LEXIS 668	June 30, 2000	Appellants, write--in candidates for the offices of mayor and borough council, appealed the judgment of the superior court, appellate division reversing the trial court's decision to set aside the election results for those offices due to irregularities related to the write--in	The New Jersey supreme court held that the votes that were rejected by election officials did not result from the voters' own errors, but from the election officials' noncompliance with statutory requirements. In other words, the voters were provided with patently inadequate instructions and defective voting machines. Moreover,	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				instructions and defective voting machines.	appellants met the statutory requirement for successfully contesting the election results by showing that enough qualified voters were denied the right to cast write--in votes as to affect the outcome of the election. Judgment reversed and the state trial court's decision reinstated.			
Goodwin v. St. Thomas-St. John Bd. of Elections	Territorial Court of the Virgin Islands	43 V.I. 89; 2000 V.I. LEXIS 15	December 13, 2000	Plaintiff political candidate alleged that certain general election	Plaintiff alleged that defendants counted unlawful absentee ballots that lacked postmarks,	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the</p>	<p>were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The territorial court held that plaintiff was not entitled to relief since he failed to</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				election results tabulated without such ballots.	establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					proper.			
Johnson v. Lopez--Torres	Supreme Court of New York, Appellate Division, Second Department	2005 NY Slip Op 7825; 2005 N.Y. App. Div. LEXIS 11276	October 21, 2005	In a proceeding for a re--canvass of certain affidavit ballots cast in the Democratic Party primary election for the public office of surrogate, the supreme court denied appellant candidate's petition requesting the same and declared appellee opponent the winner of	Finding that the candidate had waived her right to challenge the affidavit ballots and had not sufficiently established her claim of irregularities to warrant a hearing, the trial court denied her petition and declared the opponent the winner of the primary. However, on appeal, the appellate division held that no waiver occurred.			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				that election.	Moreover, because hundreds of apparently otherwise eligible voters failed to fill in their party enrollment and/or prior address, it could be reasonably inferred that these voters were misled thereby into omitting the required information. Finally, the candidate failed to make a sufficient showing of voting irregularities in			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the machine vote to require a hearing on that issue. Judgment reversed.			
Ex parte Avery	Supreme Court of Alabama	843 So. 2d 137; 2002 Ala. LEXIS 239	August 23, 2002	Petitioner probate judge moved for a writ of mandamus directing a circuit judge to vacate his order requiring the probate judge to transfer all election materials to the circuit clerk and holding him in contempt for failing to do so. The	The issuance of a writ of mandamus was appropriate. The district attorney had a right to the election materials because he was conducting a criminal investigation of the last election. Furthermore, the circuit judge had no jurisdiction or authority to issue an order	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				probate judge also requested that said material be turned over to the district attorney, pursuant to an outstanding subpoena.	directing that the election materials be given to the clerk. The district attorney received several claims of irregularities in the election, some of which could constitute voter fraud. Petition granted and writ issued.			
Harpole v. Kemper County Democratic Exec. Comm.	Supreme Court of Mississippi	908 So. 2d 129; 2005 Miss. LEXIS 463	August 4, 2005	After his loss in a primary election for the office of sheriff, appellant candidate sued appellees, a political party's executive	The candidate alleged the sheriff had his deputies transport prisoners to the polls, felons voted, and the absentee voter law was breached. The committee	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>committee and the incumbent sheriff, alleging irregularities in the election. The circuit court dismissed the candidate's petition for judicial review with prejudice. He appealed.</p>	<p>agreed with the last contention and threw out the absentee ballots (seven percent of votes cast); after a recount, the sheriff still prevailed. The trial court dismissed the case due to alleged defects in the petition; in the alternative, it held that the candidate failed to sufficiently allege violations and irregularities in the election. The supreme court held that the petition was</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					not defective. Disqualification of seven percent of the total votes was not substantial enough so as to cause the will of the voters to be impossible to discern and to warrant a special election, and there were not enough illegal votes cast for the sheriff to change the outcome. A blanket allegation implying that the sheriff had deputies transport prisoners to the			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					polls was not supported by credible evidence. Judgment affirmed.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala. LEXIS 214	December 9, 2005	The circuit court overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of	The voters and the incumbent all challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				its judgment pending resolution of the appeal.	at least 30 absentee voters who voted for the incumbent provided with their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					with the absentee--voting requirements. The judgment declaring the incumbent's opponent the winner was affirmed. The judgment counting the challenged votes in the final tally of votes was reversed, and said votes were subtracted from the incumbents total, and the stay was vacated. All other arguments were rendered moot as a result.			
ACLU of Minn. v.	United States	2004 U.S. Dist.	October 29, 2004	Plaintiffs, voters and	Plaintiffs argued that Minn. Stat.	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Kiffmeyer	District Court for the District of Minnesota	LEXIS 22996		associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration.	§ 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal Protection Clause of the Fourteenth			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on their claims that Minn. R. 8200.5100,</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to	The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				dismiss.	ballot, a first--time voter could identify himself by providing his driver's license number or the last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, even if the cost, in terms of uncounted ballots, was regrettable. The court granted the Secretary's motion to dismiss.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
New York v. County of Del.	United States District Court for the Northern District of New York	82 F. Supp. 2d 12; 2000 U.S. Dist. LEXIS 1398	February 8, 2000	Plaintiffs brought a claim in the district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued.	In their complaint plaintiffs alleged that defendants violated the ADA by making the voting locations inaccessible to disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct parties, because	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>pursuant to New York election law defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, due to the alleged</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					facts, the court found plaintiffs would likely succeed on the merits. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction and granted plaintiffs' motion for leave to amend their complaint.			
New York v. County of Schoharie	United States District	82 F. Supp. 2d 19; 2000	February 8, 2000	Plaintiffs brought a claim in the	In their complaint, plaintiffs	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Northern District of New York	U.S. Dist. LEXIS 1399		district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and a motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued.	alleged defendants violated the ADA by allowing voting locations to be inaccessible for disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct party, because pursuant to New York election law,			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, the court found that plaintiffs would likely succeed on the</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>merits of their case. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction because plaintiffs showed irreparable harm and proved likely success on the merits and granted plaintiff's motion for leave to amend the complaint.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Westchester Disabled on the Move, Inc. v. County of Westchester	United States District Court for the Southern District of New York	346 F. Supp. 2d 473; 2004 U.S. Dist. LEXIS 24203	October 22, 2004	Plaintiffs sued defendant county, county board of elections, and election officials pursuant to 42 U.S.C.S. §§ 12131--12134, N.Y. Exec. Law § 296, and N.Y. Elec. Law § 4--1--4. Plaintiffs moved for a preliminary injunction, requesting (among other things) that the court order defendants to modify the polling places in the county so that they	The inability to vote at assigned locations on election day constituted irreparable harm. However, plaintiffs could not show a likelihood of success on the merits because the currently named defendants could not provide complete relief sought by plaintiffs. Although the county board of elections was empowered to	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>were accessible to disabled voters on election day. Defendants moved to dismiss.</p>	<p>select an alternative polling place should it determine that a polling place designated by a municipality was "unsuitable or unsafe," it was entirely unclear that its power to merely designate suitable polling places would be adequate to ensure that all polling places used in the upcoming election actually conformed</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>with the Americans with Disabilities Act. Substantial changes and modifications to existing facilities would have to be made, and such changes would be difficult, if not impossible, to make without the cooperation of municipalities. Further, the court could order defendants to approve voting machines that conformed to</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the ADA were they to be purchased and submitted for county approval, but the court could not order them to purchase them for the voting districts in the county. A judgment issued in the absence of the municipalities would be inadequate. Plaintiffs' motion for preliminary injunction was denied, and defendants' motion to dismiss was granted.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Nat'l Org. on Disability v. Tartaglione	United States District Court for the Eastern District of Pennsylvania	2001 U.S. Dist. LEXIS 16731	October 11, 2001	Plaintiffs, disabled voters and special interest organizations, sued defendants, city commissioners, under the Americans with Disabilities Act and § 504 of the Rehabilitation Act of 1973, and regulations under both statutes, regarding election practices. The commissioners moved to dismiss for failure (1) to	The voters were visually impaired or wheelchair bound. They challenged the commissioners' failure to provide talking voting machines and wheelchair accessible voting places. They claimed discrimination in the process of voting because they were not afforded the same opportunity to participate in the voting process as non-disabled	No	N/A	Yes-see if the case was refiled

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				state a cause of action and (2) to join an indispensable party.	voters, and assisted voting and voting by alternative ballot were substantially different from, more burdensome than, and more intrusive than the voting process utilized by non--disabled voters. The court found that the complaint stated causes of actions under the ADA, the Rehabilitation Act, and 28 C.F.R. §§ 35.151 and			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>35.130. The court found that the voters and organizations had standing to raise their claims. The organizations had standing through the voters' standing or because they used significant resources challenging the commissioners' conduct. The plaintiffs failed to join the state official who would need to approve any talking voting machine as a</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>party. As the court could not afford complete relief to the visually impaired voters in that party's absence, it granted the motion to dismiss under Fed. R. Civ. P. 12(b)(7) without prejudice. The court granted the commissioners' motion to dismiss in part, and denied it in part. The court granted the motion to dismiss the claims of the</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					visually impaired voters for failure to join an indispensable party, without prejudice, and with leave to amend the complaint.			
TENNESSEE, Petitioner v. GEORGE LANE et al.	United States Supreme Court	541 U.S. 509; 124 S. Ct. 1978; 158 L. Ed. 2d 820; 2004 U.S. LEXIS 3386	May 17, 2004	Respondent paraplegics sued petitioner State of Tennessee, alleging that the State failed to provide reasonable access to court facilities in violation of Title II of the Americans with Disabilities Act	The state contended that the abrogation of state sovereign immunity in Title II of the ADA exceeded congressional authority under U.S. Const. amend XIV, § 5, to enforce substantive constitutional guarantees.	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>of 1990. Upon the grant of a writ of certiorari, the State appealed the judgment of the United States Court of Appeals for the Sixth Circuit which denied the State's claim of sovereign immunity.</p>	<p>The United States Supreme Court held, however, that Title II, as it applied to the class of cases implicating the fundamental right of access to the courts, constituted a valid exercise of Congress's authority. Title II was responsive to evidence of pervasive unequal treatment of persons with disabilities in the administration of state</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>services and programs, and such disability discrimination was thus an appropriate subject for prophylactic legislation. Regardless of whether the State could be subjected to liability for failing to provide access to other facilities or services, the fundamental right of access to the courts warranted the limited requirement that the State reasonably</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>accommodate disabled persons to provide such access. Title II was thus a reasonable prophylactic measure, reasonably targeted to a legitimate end. The judgment denying the State's claim of sovereign immunity was affirmed.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Hileman v. McGinness	Appellate Court of Illinois, Fifth District	316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845	October 25, 2000	Appellant challenged the circuit court's declaration that that the result of a primary election for county circuit clerk was void.	In a primary election for county circuit clerk, the parties agreed that that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					segregated, apportionment was the appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					determination as to whether fraud was evident in the electoral process. Judgment reversed and remanded.			
Eason v. State	Court of Appeals of Mississippi	2005 Miss. App. LEXIS 1017	December 13, 2005	Defendant appealed a decision of the circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud.	Defendant was helping with his cousin's campaign in a run-off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>would drive the voters to the clerk's office where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>argument arose because, while the prosecutor's closing argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Judgment affirmed.</p>			
Wilson v.	Court of	2000 Va.	May 2,	Defendant	At trial, the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Commonwealth	Appeals of Virginia	App. LEXIS 322	2000	appealed the judgment of the circuit court which convicted her of election fraud.	Commonwealth introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from			

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Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the Department of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. Judgment affirmed.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Miller v. Blackwell	United States District Court for the southern District of Ohio	348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894	October 27, 2004	Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order. Two individuals filed a motion to intervene as defendants.	Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>likelihood of success on the merits because they made a strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court also granted the individuals' motion to intervene.			
Spencer v. Blackwell	United States District Court for the Southern District of Ohio	347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062	November 1, 2004	Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls.	The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. Because the voters had shown a</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					substantial likelihood of success on the merits on the ground that the application of Ohio's statute allowing challengers at polling places was unconstitutional and the other factors governing the issuance of an injunction weighed in their favor, the court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					state on Election Day.			
Charfauros v. Bd. of Elections	United States Court of Appeals for the Ninth Circuit	2001 U.S. App. LEXIS 15083	May 10, 2001	Defendants, board of elections and related individuals, appealed from an order of the Supreme Court of the Commonwealth of the Northern Mariana Islands reversing a lower court's grant of summary judgment in favor of defendants on the ground of qualified immunity.	Plaintiffs, disqualified voters, claimed that individual members of the Commonwealth of the Northern Mariana Islands Board of Elections violated § 1983 by administering pre--election day voter challenge procedures which precluded a certain class of voters, including plaintiffs, from voting in a 1995 election. The CNMI Supreme Court reversed a lower court's grant of summary	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>judgment and defendants appealed. The court of appeals held that the Board's pre--election day procedures violated the plaintiffs' fundamental right to vote. The federal court reasoned that the right to vote was clearly established at the time of the election, and that a reasonable Board would have known that that treating voters differently based on their political party would violate the Equal</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Protection Clause. Further the court added that the allegations of the complaint were sufficient to support liability of the Board members in their individual capacities. Finally, the composition of the CNMI Supreme Court's Special Judge panel did not violate the Board's right to due process of law. The decision of Commonwealth of the Northern Mariana Islands Supreme Court was affirmed</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					where defendants' pre--election day voter challenge procedures violated plaintiffs' fundamental right to vote.			
Wit v. Berman	United States Court of Appeals for the Second Circuit	306 F.3d 1256; 2002 U.S. App. LEXIS 21301	October 11, 2002	Appellant voters who established residences in two separate cities sued appellees, state and city election officials, alleging that provisions of the New York State Election Law unconstitutionally prevented the voters from voting in local elections in both cities where they resided. The voters appealed the order of the	Under state election laws, the voters could only vote in districts in which they resided, and residence was limited to one place. The voters contended that, since they had two lawful residences, they were denied constitutional equal protection by the statutory restriction against voting in the local elections of both	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>United States District Court for the Southern District of New York which granted appellees' motion to dismiss the complaint.</p>	<p>of the places of their residences. The appellate court held, however, that no constitutional violation was shown since the provisions of the New York State Election Law imposed only reasonable, nondiscriminatory restrictions which advanced important state regulatory interests. While the voters may have interests in electoral outcomes in both cities, any rule permitting voting based on such interests would be</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>unmanageable and subject to potential abuse. Further, basing voter eligibility on domicile, which was always over--or under--inclusive, nonetheless had enormous practical advantages, and the voters offered no workable standard to replace the domicile test. Finally, allowing the voters to choose which of their residences was their domicile for voting purposes could not be deemed</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					discriminatory. Affirmed.			
Curtis v. Smith	United States District Court for the Eastern District of Texas	121 F. Supp. 2d 1054; 2000 U.S. Dist. LEXIS 17987	November 3, 2000	Plaintiffs sought a preliminary injunction to prohibit defendant tax assessor-collector from mailing confirmation letters to approximately 9,000 persons who were registered voters in Polk County, Texas.	Plaintiffs sought to prohibit defendant from mailing confirmation letters to approximately 9,000 persons, self--styled "escapees" who traveled a major portion of each year in recreational vehicles, all of whom were registered to vote in Polk County, Texas. In accordance with Texas law, three resident voters filed affidavits challenging the escapees'	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>residency. These affidavits triggered defendant's action in sending confirmation notices to the escapees. The court determined, first, that because of the potential for discrimination, defendant's action required preclearance in accordance with § 5 of the Voting Rights Act and, second, that such preclearance had not been sought or obtained. Accordingly, the court issued a preliminary injunction</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prohibiting defendant from pursuing the confirmation of residency of the escapees, or any similarly situated group, under the Texas Election Code until the process had been submitted for preclearance in accordance with § 5. The action was taken to ensure that no discriminatory potential existed in the use of such process in the upcoming presidential election or future election. Motion for preliminary injunction was</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					granted, and defendant was enjoined from pursuing confirmation of residency of the 9,000 "escapees," or any similarly situated group, under the Texas Election Code, until the process had been submitted for preclearance under § 5 of the Voting Rights Act.			
Peace & Freedom Party v. Shelley	Court of Appeal of California, Third Appellate District	114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42	January 15, 2004	Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel	The trial court ruled that inactive voters were excluded from the primary election. The court of appeals affirmed, observing that although the	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.</p>	<p>election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					certain conditions, inactive voters in California could correct the record and vote as provided the Act. The court affirmed the denial of a writ of mandate.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				moved for summary judgment.	afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					resolve that challenge, did not contravene the MVA. Defendants' motions for summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Charles H. Wesley Educ. Found., Inc. v. Cox	United States Court of Appeals for the Eleventh Circuit	408 F.3d 1349; 2005 U.S. App. LEXIS 8320	May 12, 2005	Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the	The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				foundation.	forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p>			
McKay v.	United	226 F.3d	September	Plaintiff	The trial court	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thompson	States Court of Appeals for the Sixth Circuit	752; 2000 U.S. App. LEXIS 23387	18, 2000	challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p>			

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Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims.</p>			
Nat'l	United	150 F.	July 5,	Plaintiff, national	Defendants	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales	States District Court for the Southern District of Maryland	Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528	2001	organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p>			

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Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.			
Cunningham v. Chi. Bd. of Election Comm'rs	United States District Court for the Northern District of Illinois	2003 U.S. Dist. LEXIS 2528	February 24, 2003	Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed	Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p>	<p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					preliminary relief was denied.			
Diaz v. Hood	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445	October 26, 2004	Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials	The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p>	<p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p>			

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Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p>			

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Voter Registration Rejection Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prejudice granted.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment.	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause	The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.	where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19--3509.21 violated the National Voter Registration Act, and the Equal Protection Clause of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio	The voters asserted that § 3503.02---- which stated that the place where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>granted summary judgment in favor of defendants. The voters appealed.</p>	<p>not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann. § 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Wilson v. Commonwealth	Court of Appeals of Virginia	2000 Va. App. LEXIS 322	May 2, 2000	Defendant appealed the judgment of the circuit court which convicted her of election fraud.	On appeal, defendant argued that the evidence was insufficient to support her conviction because it failed to prove that she made a willfully false statement on her voter registration form and, even if the evidence did prove that she made such a statement, it did not prove that the voter registration form was the form required by Title 24.2. At trial, the Commonwealth	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from the Department</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed by Title 24.2 in order for her to be a candidate for office in the primary in question. Judgment of conviction affirmed. Evidence, including</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					records showing electricity and water usage, records from the Department of Motor Vehicles and school records, was sufficient to support jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question.			
ACLU of Minn. v.	United States	2004 U.S. Dist.	October 29, 2004	Plaintiffs, voters and	Plaintiffs argued that	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Kiffmeyer	District Court for the District of Minnesota	LEXIS 22996		associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration.	Minn. Stat. § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>address of the individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Protection Clause of the Fourteenth Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					their claims that Minn. R. 8200.5100, violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.			
Kalsson v. United States FEC	United States District Court for the Southern District of New York	356 F. Supp. 2d 371; 2005 U.S. Dist. LEXIS 2279	February 16, 2005	Defendant Federal Election Commission filed a motion to dismiss for lack of subject matter jurisdiction plaintiff individual's action, which sought a declaration that	The individual claimed that his vote was diluted because the NVRA resulted in more people registering to vote than otherwise would have been the case. The court held that the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the National Voter Registration Act was unconstitutional on the theories that its enactment was not within the enumerated powers of the federal government and that it violated Article II of the United States Constitution.</p>	<p>individual lacked standing to bring the action. Because New York was not obliged to adhere to the requirements of the NVRA, the individual did not allege any concrete harm. If New York simply adopted election day registration for elections for federal office, it would have been entirely free of the NVRA just as were five other states. Even if the individual's vote were diluted, and</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					even if such an injury in other circumstances might have sufficed for standing, any dilution that he suffered was the result of New York's decision to maintain a voter registration system that brought it under the NVRA, not the NVRA itself. The court granted the motion to dismiss for lack of subject matter jurisdiction.			
Peace &	California	114 Cal.	January 15,	Plaintiff	The trial court	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Freedom Party v. Shelley	Court of Appeal, Third Appellate District	App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42	2004	political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.	ruled that inactive voters were excluded from the primary election calculation. The court of appeals affirmed, observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in California could correct the record and</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					vote. Affirmed.			
McKay v. Thompson	United States Court of Appeals for the Sixth Circuit	226 F.3d 752; 2000 U.S. App. LEXIS 23387	September 18, 2000	Plaintiff challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	The trial court had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous caselaw, and could be	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>challenged in state court. The requirement did not violate the Privacy Act because it was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. Plaintiff</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>could not enforce § 1971 as it was enforceable only by the United States Attorney General. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. Although the trial court arguably erred in denying certification of the case to the USAG under</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>28 U.S.C.S. § 2403(a), plaintiff suffered no harm from the technical violation. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					right to vote, free exercise of religion, privileges and immunities, and due process claims.			
Lucas County Democratic Party v. Blackwell	United States District Court for the Northern District of Ohio	341 F. Supp. 2d 861; 2004 U.S. Dist. LEXIS 21416	October 21, 2004	Plaintiff organizations brought an action challenging a memorandum issued by defendant, Ohio's Secretary of State, in December 2003. The organizations claimed that the memorandum contravened provisions of the Help America Vote	The case involved a box on Ohio's voter registration form that required a prospective voter who registered in person to supply an Ohio driver's license number or the last four digits of their Social Security number. In his memorandum, the Secretary informed all	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Act and the National Voter Registration Act. The organizations moved for a preliminary injunction.</p>	<p>Ohio County Boards of Elections that, if a person left the box blank, the Boards were not to process the registration forms. The organizations did not file their suit until 18 days before the national election. The court found that there was not enough time before the election to develop the evidentiary record necessary to determine if the organizations</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were likely to succeed on the merits of their claim. Denying the organizations' motion would have caused them to suffer no irreparable harm. There was no appropriate remedy available to the organizations at the time. The likelihood that the organizations could have shown irreparable harm was, in any event, slight in view of the fact that</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					they waited so long before filing suit. Moreover, it would have been entirely improper for the court to order the Boards to re--open in--person registration until election day. The public interest would have been ill--served by an injunction. The motion for a preliminary injunction was denied sua sponte.			
Nat'l Coalition for Students with Disabilities	United States District Court for	150 F. Supp. 2d 845; 2001 U.S. Dist.	July 5, 2001	Plaintiff, national organization for disabled	Defendants alleged that plaintiff lacked standing to	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Educ. & Legal Def. Fund v. Scales	the District of Maryland	LEXIS 9528		students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not registered			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim,</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the court found that the agency practice of only offering voter registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					university. Defendants' motion to dismiss first amended complaint was granted as to the § 1983 claimant denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.			
People v. Disimone	Court of Appeals of Michigan	251 Mich. App. 605; 650 N.W.2d 436; 2002	July 11, 2002	Defendant was charged with attempting to vote more than once in the	Defendant was registered in the Colfax township for the 2000	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		Mich. App. LEXIS 826		2000 general election. The circuit court granted defendant's motion that the State had to prove specific intent. The State appealed.	general election. After presenting what appeared to be a valid voter's registration card, defendant proceeded to vote in the Grant township. Defendant had voted in the Colfax township earlier in the day. Defendant moved the court to issue an order that the State had to find that he had a specific intent to vote twice in order to be convicted. The appellate court			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					reversed the circuit court judgment and held that under the rules of statutory construction, the fact that the legislature had specifically omitted certain trigger words such as "knowingly," "willingly," "purposefully," or "intentionally" it was unlikely that the legislature had intended for this to be a specific intent crime. The court also rejected the			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					defendant's argument that phrases such as "offer to vote" and "attempt to vote" should be construed as synonymous terms, as when words with similar meanings were used in the same statute, it was presumed that the legislature intended to distinguish between the terms. The order of the circuit court was reversed.			
Diaz v. Hood	United States District	342 F. Supp. 2d 1111; 2004	October 26, 2004	Plaintiffs, unions and individuals who	The putative voters sought injunctive relief	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Southern District of Florida	U.S. Dist. LEXIS 21445		had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials moved to dismiss the complaint for lack of standing	requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental capacity, the second failed to check a box			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				and failure to state a claim.	indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					injury. Standing failed against the secretary of state. The motions to dismiss the complaint were granted without prejudice.			
Charles H. Wesley Educ. Found., Inc. v. Cox	United States District Court for the Northern District of Georgia	324 F. Supp. 2d 1358; 2004 U.S. Dist. LEXIS 12120	July 1, 2004	Plaintiffs, a voter, fraternity members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in	The organization participated in numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV.</p>	<p>mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Plaintiffs' motion for a preliminary injunction was granted. Defendants were ordered to process the applications received from</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the organization to determine whether those registrants were qualified to vote. Furthermore, defendants were enjoined from rejecting any voter registration application on the grounds that it was mailed as part of a "bundle" or that it was collected by someone not authorized or any other reason contrary to the NVRA.</p>			
Moseley v. Price	United States	300 F. Supp. 2d	January 22, 2004	Plaintiff alleged, that	The court concluded that	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	District Court for the Eastern District of Virginia	389; 2004 U.S. Dist. LEXIS 850		defendants' actions in investigating his voter registration application constituted a change in voting procedures requiring § 5 preclearance under the Voting Rights Act, which preclearance was never sought or received. Plaintiff claimed he withdrew from the race for Commonwealth Attorney because of the investigation.	plaintiff's claim under the Voting Rights Act lacked merit. Plaintiff did not allege, as required, that any defendants implemented a new, uncleared voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. Here, the existing practice or procedure in effect in the event a mailed registration card was			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Defendants moved to dismiss the complaint.	returned was to "resend the voter card, if address verified as correct." This was what precisely occurred. Plaintiff inferred, however, that the existing voting rule or practice was to resend the voter card "with no adverse consequences" and that the county's initiation of an investigation constituted the implementation of a change that had not been pre--cleared.			

014542

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The court found the inference wholly unwarranted because nothing in the written procedure invited or justified such an inference. The court opined that common sense and state law invited a different inference, namely that while a returned card had to be resent if the address was verified as correct, any allegation of</p>			

014543

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					fraud could be investigated. Therefore, there was no new procedure for which preclearance was required. The court dismissed plaintiff's federal claims. The court dismissed the state law claims without prejudice.			
Thompson v. Karben	Supreme Court of New York, Appellate Division, Second Department	295 A.D.2d 438; 743 N.Y.S.2d 175; 2002 N.Y. App. Div. LEXIS 6101	June 10, 2002	Respondents filed a motion seeking the cancellation of appellant's voter registration and political party enrollment on the ground that	Respondents alleged that appellant was unlawfully registered to vote from an address at which he did not reside and that he should	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellant was unlawfully registered to vote in a particular district. The Supreme Court, Rockland County, New York, ordered the cancellation of appellant's voter registration and party enrollment. Appellant challenged the trial court's order.</p>	<p>have voted from the address that he claimed as his residence. The appellate court held that respondents adduced insufficient proof to support the conclusion that appellant did not reside at the subject address. On the other hand, appellant submitted copies of his 2002 vehicle registration, 2000 and 2001 federal income tax returns, 2002 property tax bill, a May</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					2001 paycheck stub, and 2000 and 2001 retirement account statements all showing the subject address. Appellant also testified that he was a signatory on the mortgage of the subject address and that he kept personal belongings at that address. Respondents did not sustain their evidentiary burden. The judgment of the trial court was reversed.			
Nat'l Coalition	United	2002 U.S.	August 2,	Plaintiffs, a	The court	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
v. Taft	States District Court for the Southern District of Ohio	Dist. LEXIS 22376	2002	nonprofit public interest group and certain individuals, sued defendants, certain state and university officials, alleging that they violated the National Voter Registration Act in failing to designate the disability services offices at state public colleges and universities as voter registration sites. The group and individuals moved for a	found that the disability services offices at issue were subject to the NVRA because the term "office" included a subdivision of a government department or institution and the disability offices at issue were places where citizens regularly went for service and assistance. Moreover, the Ohio Secretary of State had an obligation under the NVRA to designate the			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				preliminary injunction.	disability services offices as voter registration sites because nothing in the law superceded the NVRA's requirement that the responsible state official designate disability services offices as voter registration sites. Moreover, under Ohio Rev. Code Ann. § 3501.05(R), the Secretary of State's duties expressly included			

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Voter Registration Cases

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					<p>ensuring compliance with the NVRA. The case was not moot even though the Secretary of State had taken steps to ensure compliance with the NVRA given his position to his obligation under the law. The court granted declaratory judgment in favor of the nonprofit organization and the individuals. The motion for a preliminary</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					injunction was granted in part and the Secretary of State was ordered to notify disabled students who had used the designated disability services offices prior to the opening day of the upcoming semester or who had pre-registered for the upcoming semester as to voter registration availability.			
Lawson v. Shelby County	United States Court of Appeals for the	211 F.3d 331; 2000 U.S. App. LEXIS	May 3, 2000	Plaintiffs who were denied the right to vote when they	Plaintiffs attempted to register to vote in October, and	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Sixth Circuit	8634		refused to disclose their social security numbers, appealed a judgment of the United States District Court for the Western District of Tennessee at Memphis dismissing their amended complaint for failure to state claims barred by U.S. Const. amend. XI.	to vote in November, but were denied because they refused to disclose their social security numbers. A year after the election date they filed suit alleging denial of constitutional rights, privileges and immunities, the Privacy Act of 1974 and § 1983. The district court dismissed, finding the claims were barred by U.S. Const. amend. XI, and the one			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>year statute of limitations. The appeals court reversed, holding the district court erred in dismissing the suit because U.S. Const. amend. XI immunity did not apply to suits brought by a private party under the Ex Parte Young exception. Any damages claim not ancillary to injunctive relief was barred. The court also held the statute of limitations ran from the date plaintiffs</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were denied the opportunity to vote, not register, and their claim was thus timely. Reversed and remanded to district court to order such relief as will allow plaintiffs to vote and other prospective injunctive relief against county and state officials; declaratory relief and attorneys' fees ancillary to the prospective injunctive relief, all permitted under</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the Young exception to sovereign immunity, to be fashioned.			
Curtis v. Smith	United States District Court for the Eastern District of Texas	145 F. Supp. 2d 814; 2001 U.S. Dist. LEXIS 8544	June 4, 2001	Plaintiffs, representatives of several thousand retired persons who called themselves the "Escapes," and who spent a large part of their lives traveling about the United States in recreational vehicles, but were registered to vote in the county, moved for preliminary injunction seeking to	Before a general election, three persons brought an action alleging the Escapes were not bona fide residents of the county, and sought to have their names expunged from the rolls of qualified voters. The plaintiffs brought suit in federal district court. The court issued a	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				enjoin a Texas state court proceeding under the All Writs Act.	preliminary injunction forbidding county officials from attempting to purge the voting. Commissioner contested the results of the election, alleging Escapees' votes should be disallowed. Plaintiffs brought present case assertedly to prevent the same issue from being relitigated. The court held, however, the issues were different, since,			

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Voter Registration Cases

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					<p>unlike the case in the first proceeding, there was notice and an opportunity to be heard. Further, unlike the first proceeding, the plaintiff in the state court action did not seek to change the prerequisites for voting registration in the county, but instead challenged the actual residency of some members of the Escapees, and such challenge</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					properly belonged in the state court. The court further held that an election contest under state law was the correct vehicle to contest the registration of Escapees. The court dissolved the temporary restraining order it had previously entered and denied plaintiffs' motion for preliminary injunction of the state court proceeding.			
Pepper v. Darnell	United States Court	24 Fed. Appx. 460;	December 10, 2001	Plaintiff individual	Individual argued on	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	of Appeals for the Sixth Circuit	2001 U.S. App. LEXIS 26618		<p>appealed from a judgment of the district court, in an action against defendant state officials seeking relief under § 1983 and the National Voter Registration Act, for their alleged refusal to permit individual to register to vote. Officials had moved for dismissal or for summary judgment, and the district court granted the motion.</p>	<p>appeal that the district court erred in finding that the registration forms used by the state did not violate the NVRA and in failing to certify a class represented by individual. Individual lived in his automobile and received mail at a rented box. Officials refused to validate individual's attempt to register to vote by mail. Tennessee state law forbade</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>accepting a rented mail box as the address of the potential voter. Individual insisted that his automobile registration provided sufficient proof of residency under the NVRA. The court upheld the legality of state's requirement that one registering to vote provide a specific location as an address, regardless of the transient lifestyle of the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>potential voter, finding state's procedure faithfully mirrored the requirements of the NVRA as codified in the Code of Federal Regulations. The court also held that the refusal to certify individual as the representative of a class for purposes of this litigation was not an abuse of discretion; in this case, no representative party was available as the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					indigent individual, acting in his own behalf, was clearly unable to represent fairly the class. The district court's judgment was affirmed.			
Miller v. Blackwell	United States District Court for the Southern District of Ohio	348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894	October 27, 2004	Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the	Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order (TRO). Two individuals filed a motion to intervene as defendants.</p>	<p>Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of success on the merits because they made a</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					also granted the individuals' motion to intervene.			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Hileman v. McGinness	Court of Appeals of Illinois, Fifth District	316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845	October 25, 2000	Appellant challenged the circuit court declaration that that the result of a primary election for county circuit clerk was void.	In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been segregated, apportionment was the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a determination as to whether fraud was evident in</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the electoral process. The court reversed the declaration of the trial court, holding that a determination as to whether fraud was involved in the election was necessary to a determination of whether or not a new election was required.			
DeFabio v. Gummersheimer	Supreme Court of Illinois	192 Ill. 2d 63; 733 N.E.2d 1241; 2000 Ill. LEXIS 993	July 6, 2000	Appellant challenged the judgment of the appellate court, which affirmed the trial court's decision granting appellee's summary judgment motion in action brought by	Appellee filed a petition for election contest, alleging that the official results of the Monroe County coroners election were invalid because none of the 524 ballots cast in	No	N/A	No

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellee to contest the results of the election for the position of county coroner in Monroe County.</p>	<p>Monroe County's second precinct were initialed by an election judge, in violation of Illinois law. The trial court granted appellee's motion for summary judgment, and the appellate court affirmed the judgment. The Illinois supreme court affirmed, noting that statutes requiring election judges to initial election ballots were mandatory, and uninitialed</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption. Thus, the supreme court held that the trial court properly invalidated all of the ballots cast in Monroe County's second precinct. The court reasoned that none of the ballots contained the requisite initialing, and neither party argued that any</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>of the uninitialed ballots could have been distinguished or identified as absentee ballots. The supreme court affirmed the judgment because the Illinois statute requiring election judges to initial election ballots was mandatory, and uninitialed ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption.</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Additionally, none of the ballots in Monroe County's second precinct contained the requisite initialing.			
Gilmore v. Amityville Union Free Sch. Dist.	United States District Court for the Eastern District of New York	305 F. Supp. 2d 271; 2004 U.S. Dist. LEXIS 3116	March 2, 2004	Plaintiffs, two school board candidates, filed a class action complaint against defendants, a school district, the board president, and other district agents or employees, challenging a school board election. Defendants moved to dismiss.	During the election, a voting machine malfunctioned, resulting in votes being cast on lines that were blank on the ballot. The board president devised a plan for counting the machine votes by moving each tally up one line. The two candidates, who were African	No	N/A	No

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>American, alleged that the president's plan eliminated any possibility that an African American would be elected. The court found that the candidates failed to state a claim under § 1983 because they could not show that defendants' actions were done or approved by a person with final policymaking authority, nor was there a showing of intentional or</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>purposeful discrimination on defendants' part. The vote-counting method applied equally to all candidates. The candidates' claims under § 2000a and 2000c--8 failed because schools were not places of public accommodation, as required under § 2000a, and § 2000c--8 applied to school segregation. Their claim under § 1971 of deprivation of voting rights failed because §</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					1971 did not provide for a private right of action. The court declined to exercise supplemental jurisdiction over various state law claims. Defendants' motion to dismiss was granted with respect to the candidates' federal claims; the state law claims were dismissed without prejudice.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot,	The Secretary of State issued a directive to all Ohio county boards of	No	N/A	No

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074		sought review of a judgment from the court of appeals, which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional ballots were not counted. They, together with a political activist group, brought the mandamus action to compel			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The court dismissed the complaint, finding that no clear legal right was established under Ohio law and the federal claims could be adequately raised in an action under §</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>1983. On appeal, the Ohio supreme court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed under § 1983 to raise the federal--law claims. Affirmed.</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Touchston v. McDermott	United States District Court for the Middle District of Florida	120 F. Supp. 2d 1055; 2000 U.S. Dist. LEXIS 20091	November 14, 2000	In action in which plaintiffs, registered voters in Brevard County, Florida, filed suit against defendants, members of several County Canvassing Boards and the Secretary of the Florida Department of State, challenging the constitutionality of Fla. Stat. Ann. § 102.166(4) (2000), before the court was plaintiffs' emergency motion for temporary restraining order and/or preliminary injunction.	In their complaint, plaintiffs challenged the constitutionality of § 102.166(4), asserting that the statute violated their rights under the Equal Protection and Due Process Clauses of U.S. Const. amend. XIV. Based on these claims, plaintiffs sought an order from the court stopping the manual recount of votes. The court found that plaintiffs had failed to set forth a valid	No	N/A	No

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					basis for intervention by federal courts. They had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. Moreover, plaintiffs had not established a likelihood of success on the merits of their claims. Plaintiffs' motion for temporary restraining order and/or			

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					preliminary injunction denied; plaintiffs had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote.			
Siegel v. LePore	United States District Court for the Southern District of Florida	120 F. Supp. 2d 1041; 2000 U.S. Dist. LEXIS 16333	November 13, 2000	Plaintiffs, individual Florida voters and Republican Party presidential and vice-presidential candidates, moved for a temporary restraining order and preliminary injunction to	The court addressed who should consider plaintiffs' serious arguments that manual recounts would diminish the accuracy of vote counts due to ballot	No	N/A	No

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				enjoin defendants, canvassing board members from four Florida counties, from proceeding with manual recounts of election ballots.	degradation and the exercise of discretion in determining voter intent. The court ruled that intervention by a federal district court, particularly on a preliminary basis, was inappropriate. A federal court should not interfere except where there was an immediate need to correct a constitutional violation. Plaintiffs neither demonstrated a clear deprivation of a constitutional			

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					injury or a fundamental unfairness in Florida's manual recount provision. The recount provision was reasonable and non-discriminatory on its face and resided within the state's broad control over presidential election procedures. Plaintiffs failed to show that manual recounts were so unreliable as to constitute a constitutional injury, that plaintiffs'			

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					alleged injuries were irreparable, or that they lacked an adequate state court remedy. Injunctive relief denied because plaintiffs demonstrated neither clear deprivation of constitutional injury or fundamental unfairness in Florida's manual recount provision to justify federal court interference in state election procedures.			
Gore v. Harris	Supreme Court of	773 So. 2d 524;	December 22, 2000	In a contest to results of the 2000	The state supreme court	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Florida	2000 Fla. LEXIS 2474		presidential election in Florida, the United States Supreme Court reversed and remanded a Florida Supreme Court decision that had ordered a manual recount of certain ballots.	had ordered the trial court to conduct a manual recount of 9000 contested Miami--Dade County ballots, and also held that uncounted "undervotes" in all Florida counties were to be manually counted. The trial court was ordered to use the standard that a vote was "legal" if there was a clear indication of the intent of the voter. The United States Supreme Court released an			

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					<p>opinion on December 12, 2000, which held that such a standard violated equal protection rights because it lacked specific standards to ensure equal application, and also mandated that any manual recount would have to have been completed by December 12, 2000. On remand, the state supreme court found that it was impossible under that time frame to adopt adequate</p>			

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					standards and make necessary evaluations of vote tabulation equipment. Also, development of a specific, uniform standard for manual recounts was best left to the legislature. Because adequate standards for a manual recount could not be developed by the deadline set by the United States Supreme Court, appellants were afforded no relief.			
Goodwin v. St.	Territorial	43 V.I.	December	Plaintiff political	Plaintiff alleged	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thomas--St. John Bd. of Elections	Court of the Virgin Islands	89; 2000 V.I. LEXIS 15	13, 2000	candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots.	that defendants counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The			

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					<p>court held that plaintiff was not entitled to relief since he failed to establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election</p>			

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					<p>requirements. Further, while defendants improperly counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and</p>			

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					ballots without notarized signatures were proper. Plaintiff's request for declaratory and injunctive relief was denied. Invalidation of absentee ballots was not required since the irregularities asserted by plaintiff involved ballots which were in fact valid, were not tabulated by defendants, or were insufficient to change the outcome of the election.			
Shannon v.	United	394 F.3d	January 7,	Plaintiffs, voters	Local election	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Jacobowitz	States Court of Appeals for the Second Circuit	90; 2005 U.S. App. LEXIS 259	2005	and an incumbent candidate, sued defendants, a challenger candidate, a county board of election, and commissioners, pursuant to § 1983 alleging violation of the Due Process Clause of the Fourteenth Amendment. The United States District Court for the Northern District of New York granted summary judgment in favor of plaintiffs. Defendants appealed.	inspectors noticed a problem with a voting machine. Plaintiffs asserted that their votes were not counted due to the machine malfunction. Rather than pursue the state remedy of quo warranto, by requesting that New York's Attorney General investigate the machine malfunction and challenge the election results in state court, plaintiffs filed their complaint in federal court.			

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					<p>The court of appeals found that United States Supreme Court jurisprudence required intentional conduct by state actors as a prerequisite for a due process violation. Neither side alleged that local officials acted intentionally or in a discriminatory manner with regard to the vote miscount. Both sides conceded that the recorded results were</p>			

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					<p>likely due to an unforeseen malfunction with the voting machine. Because no conduct was alleged that would indicate an intentional deprivation of the right to vote, there was no cognizable federal due process claim. The proper remedy was to assert a quo warranto action to challenge the outcome of a general election based on an alleged voting machine malfunction.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					The district court's grant of summary judgment was reversed and its injunctions were vacated. The case was remanded for further proceedings consistent with this opinion.			
GEORGE W. BUSH v. PALM BEACH COUNTY CANVASSING BOARD, ET AL.	United States Supreme Court	531 U.S. 70; 121 S. Ct. 471; 148 L. Ed. 2d 366; 2000 U.S. LEXIS 8087	December 4, 2000	Appellant Republican presidential candidate's petition for writ of certiorari to the Florida supreme court was granted in a case involving interpretations of Fla. Stat. Ann. §§ 102.111, 102.112, in proceedings brought by	The Supreme Court vacated the state court's judgment, finding that the state court opinion could be read to indicate that it construed the Florida Election Code without regard to the extent to which	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellees Democratic presidential candidate, county canvassing boards, and Florida Democratic Party regarding authority of the boards and respondent Florida Secretary of State as to manual recounts of ballots and deadlines.</p>	<p>the Florida Constitution could, consistent with U.S. Const. art. II, § 1, cl. 2, circumscribe the legislative power. The judgment of the Florida Supreme Court was vacated and remanded for further proceedings. The court stated the judgment was unclear as to the extent to which the state court saw the Florida constitution as circumscribing the legislature's authority under</p>			

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					Article II of the United States Constitution, and as to the consideration given the federal statute regarding state electors.			
Touchston v. McDermott	United States Court of Appeals for the Eleventh Circuit	234 F.3d 1130; 2000 U.S. App. LEXIS 29366	November 17, 2000	Plaintiff voters appealed from judgment of the United States District Court for the Middle District of Florida, which denied their emergency motion for an injunction pending appeal against defendant county election officials. Plaintiffs sought to enjoin defendants from conducting manual ballot recounts or	Plaintiff voters sought an emergency injunction pending appeal to enjoin defendant county election officials from conducting manual ballot recounts or to enjoin defendants from certifying the results of the Presidential election which	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				to enjoin defendants from certifying results of the presidential election that contained any manual recounts.	contained any manual recounts. The district court denied the emergency injunction and plaintiffs appealed. Upon review, the emergency motion for injunction pending appeal was denied without prejudice. Florida had adequate election dispute procedures, which had been invoked and were being implemented in the forms of administrative			

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					<p>actions by state officials and actions in state court. Therefore, the state procedures were adequate to preserve for ultimate review in the United States Supreme Court any federal questions arising out of the state procedures. Moreover, plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would warrant granting the extraordinary</p>			

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					remedy of an injunction pending appeal. Denial of plaintiff's petition for emergency injunction pending appeal was affirmed. The state procedures were adequate to preserve any federal issue for review, and plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would have warranted granting the extraordinary remedy of the			

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					injunction.			
Gore v. Harris	Supreme Court of Florida	772 So. 2d 1243; 2000 Fla. LEXIS 2373	December 8, 2000	The court of appeal certified as being of great public importance a trial court judgment that denied all relief requested by appellants, candidates for President and Vice President of the United States, in appellants' contest to certified election results.	Appellants contested the certification of their opponents as the winners of Florida's electoral votes. The Florida supreme court found no error in the trial court's holding that it was proper to certify election night returns from Nassau County rather than results of a machine recount. Nor did the trial court err in refusing to include votes that the Palm Beach County	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Canvassing Board found not to be legal votes during a manual recount. However, the trial court erred in excluding votes that were identified during the Palm Beach County manual recount and during a partial manual recount in Miami--Dade County. It was also error to refuse to examine Miami--Dade County ballots that registered as non--votes during the machine count.</p>			

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					<p>The trial court applied an improper standard to determine whether appellants had established that the result of the election was in doubt, and improperly concluded that there was no probability of a different result without examining the ballots that appellants claimed contained rejected legal votes. The judgment was reversed and remanded; the</p>			

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					<p>trial court was ordered to tabulate by hand Miami-Dade County ballots that the counting machine registered as non--votes, and was directed to order inclusion of votes that had already been identified during manual recounts. The trial court also was ordered to consider whether manual recounts in other counties were necessary.</p>			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
James v. Bartlett	Supreme Court of North Carolina	359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146	February 4, 2005	Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed.	The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out-of-precinct provisional	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots to be counted in state and local elections. The candidates failure to challenge the counting of out-of-precinct provisional ballots before the election did not render their action untimely. Reversed and remanded.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	387 F.3d 565; 2004 U.S. App. LEXIS 22320	October 26, 2004	Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast	The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p>	<p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p>			

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					<p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted.</p> <p>Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					legal votes. Affirmed in part and reversed in part.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					under § 1983 to raise the federal-law claims. Affirmed.			
Fla. Democratic Party v. Hood	United States District Court for the Northern District of Florida	342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720	October 21, 2004	Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings.	The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise	No	N/A	No

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					<p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p>			

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					was cast in the proper precinct under State law.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss.	The directive in question instructed election officials to issue provisional ballots to first--time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first--time voter could identify himself by providing his driver's license number or the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the			

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					<p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p>			

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					even if the cost, in terms of uncounted ballots, was regrettable.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	386 F.3d 815; 2004 U.S. App. LEXIS 28765	October 23, 2004	Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements.	On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.			
Hawkins v. Blunt	United States District Court for the Western District of Missouri	2004 U.S. Dist. LEXIS 21512	October 12, 2004	In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved	The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements.	No	N/A	No

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				for summary judgment.	The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional			

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					ballot, the voter would first be directed to his proper polling place.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551	October 13, 2004	Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal	The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				legislation. Defendants filed a motion to transfer venue.	venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872	October 19, 2004	Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a	The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a	No	N/A	No

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p>	<p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p>			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first--time voters who registered by mail were consistent with federal and state law.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Charles H. Wesley Educ. Found., Inc. v. Cox	United States Court of Appeals for the Eleventh Circuit	408 F.3d 1349; 2005 U.S. App. LEXIS 8320	May 12, 2005	Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the	The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Voter Registration Rejection Cases.- 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				foundation.	forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p>			
McKay v.	United	226 F.3d	September	Plaintiff	The trial court	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thompson	States Court of Appeals for the Sixth Circuit	752; 2000 U.S. App. LEXIS 23387	18, 2000	challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims.</p>			
Nat'l	United	150 F.	July 5,	Plaintiff, national	Defendants	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales	States District Court for the Southern District of Maryland	Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528	2001	organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p>			
<p>Cunningham v. Chi. Bd. of Election Comm'rs</p>	<p>United States District Court for the Northern District of Illinois</p>	<p>2003 U.S. Dist. LEXIS 2528</p>	<p>February 24, 2003</p>	<p>Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed</p>	<p>Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were</p>	<p>No</p>	<p>N/A</p>	<p>No</p>

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p>	<p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					preliminary relief was denied.			
Diaz v. Hood	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445	October 26, 2004	Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials	The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p>	<p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p>			

014642

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prejudice granted.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment.	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA	No	N/A	No

014643

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause	The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p>	<p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Spencer v. Blackwell	United States District Court for the Southern District of Ohio	347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062	November 1, 2004	Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the	The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				polls.	challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. The court enjoined all</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day.			
MARIAN SPENCER, et al., Petitioners v. CLARA PUGH, et al. (No. 04A360) SUMMIT COUNTY DEMOCRATIC CENTRAL and EXECUTIVE COMMITTEE, et al., Petitioners v. MATTHEW HEIDER, et al. (No. 04A364)	United States Supreme Court	125 S. Ct. 305; 160 L. Ed. 2d 213; 2004 U.S. LEXIS 7400	November 2, 2004	In two separate actions, plaintiffs sued defendant members of a political party, alleging that the members planned to mount indiscriminate challenges in polling places which would disrupt voting. Plaintiffs applied to	Plaintiffs contended that the members planned to send numerous challengers to polling places in predominantly African--American neighborhoods to challenge votes in an imminent national election, which would allegedly cause	No	N/A	No

EAC Voting Fraud-Voter Intimidation
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>vacate orders entered by the United States Court of Appeals for the Sixth Circuit which entered emergency stays of injunctions restricting the members' activities.</p>	<p>voter intimidation and inordinate delays in voting. A district court ordered challengers to stay out of polling places, and another district court ordered challengers to remain in the polling places only as witnesses, but the appellate court stayed the orders. The United States Supreme Court, acting through a single Circuit Justice, declined to reinstate the injunctions for</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prudential reasons, despite the few hours left until the upcoming election. While the allegations of abuse were serious, it was not possible to determine with any certainty the ultimate validity of the plaintiffs' claims or for the full Supreme Court to review the relevant submissions, and voting officials would be available to enable proper voting by qualified voters.			
Charles H. Wesley Educ.	United States	324 F. Supp. 2d	July 1, 2004	Plaintiffs, a voter, fraternity	The organization participated in	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Found., Inc. v. Cox	District Court for the Northern District of Georgia	1358; 2004 U.S. Dist. LEXIS 12120		members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter	numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Registration Act and U.S. Const. amends. I, XIV, and XV.</p>	<p>were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that:</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Injunction granted.</p>			
Jacksonville Coalition for Voter Prot. v. Hood	United States District Court for	351 F. Supp. 2d 1326; 2004 U.S.	October 25, 2004	Plaintiffs, voter protection coalition, union, and	The coalition, the union, and the voters based their claim on	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	the Middle District of Florida	Dist. LEXIS 26522		voters, filed an emergency motion for a preliminary injunction and argued that African Americans in the county had less opportunity than other members of the state's electorate to vote in the upcoming election, and that defendants, elections officials', implementation of early voting procedures violated the Voting Rights	the fact that the county had the largest percentage of African--American registered voters of any major county in the state, and, yet, other similarly-sized counties with smaller African--American registered voter percentages had more early voting sites. Based on that, they argued that African--American voters in the county were disproportionately affected. The			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Act and their constitutional rights.	court found that while it may have been true that having to drive to an early voting site and having to wait in line may cause people to be inconvenienced, inconvenience did not result in a denial of meaningful access to the political process. Thus, the coalition, the union, and the voters had not established a likelihood of success on the merits of their claim that the county's implementation			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further	
Taylor v. Howe	United States Court of Appeals	225 F.3d 993; 2000 U.S. App. LEXIS	August 31, 2000	Plaintiffs, African American voters, poll	of early voting procedures violated § 2 of the Voting Rights Act. Moreover, the coalition, the union, and the voters failed to establish a likelihood of success on the merits of their § 1983 Fourteenth and Fifteenth Amendment claims, which required a higher proof of discriminatory purpose and effect. Injunction denied.	The court of appeals affirmed--in--part, reversed--	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	for the Eighth Circuit	22241		<p>watchers, and candidates appealed from a judgment of the United States District Court for the Eastern District of Arkansas in favor of defendants, elections commissioners and related individuals, on their § 1983 voting rights claims and contended the district court made erroneous findings of fact and law and failed to appreciate evidence of</p>	<p>in--part, and remanded the district court's judgment. The court found that the district court's finding of a lack of intentional discrimination was appropriate as to many defendants. However, as to some of the individual voters' claims for damages, the court held "a definite and firm conviction" that the district court's findings were mistaken. The court noted that the argument that a</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				discriminatory intent.	voter's name was misspelled in the voter register, with a single incorrect letter, was a flimsy pretext and, accordingly, held that the district court's finding that defendant poll workers did not racially discriminate in denying the vote to this plaintiff was clearly erroneous. Affirmed in part and reversed in part.			
Stewart v. Blackwell	United States District Court for the	356 F. Supp. 2d 791; 2004 U.S. Dist. LEXIS	December 14, 2004	Plaintiffs, including African--American voters, alleged	The primary thrust of the litigation was an attempt to federalize	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Northern District of Ohio	26897		that use of punch card voting and "central--count" optical scanning devices by defendants, the Ohio Secretary of State et al., violated their rights under the Due Process Clause, the Equal Protection Clause, and (African--American plaintiffs) their rights under § 2 of the Voting Rights Act.	elections by judicial rule or fiat via the invitation to the court to declare a certain voting technology unconstitutional and then fashion a remedy. The court declined the invitation. The determination of the applicable voting process had always been focused in the legislative branch of the government. While it was true that the percentage of residual or non-voted ballots in the 2000			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>presidential election ran slightly higher in counties using punch card technology, that fact standing alone was insufficient to declare the use of the system unconstitutional. Moreover, the highest frequency in Ohio of residual voting bore a direct relationship to economic and educational factors, negating the Voting Rights Act claim. The court further stated that local variety</p>			

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					in voting technology did not violate the Equal Protection Clause, even if the different technologies had different levels of effectiveness in recording voters' intentions, so long as there was some rational basis for the technology choice. It concluded that defendants' cost and security reasons for the use of punch card ballots were plausible.			
Taylor v. Currie	United States District	386 F. Supp. 2d 929; 2005	September 14, 2005	Plaintiff brought an action against	This action involved issues pertaining to	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Eastern District of Michigan	U.S. Dist. LEXIS 20257		defendants, including a city elections commission, alleging defects in a city council primary election pertaining to absentee balloting. The case was removed to federal court by defendants. Pending before the court was a motion to remand, filed by plaintiff.	absentee ballots. Plaintiff alleged that defendants were not complying with state laws requiring certain eligibility checks before issuing absentee ballots. The state court issued an injunction preventing defendants from mailing absentee ballots. Defendants removed the action to federal court and plaintiff sought a remand. Defendants argued that not mailing the absentee ballots			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>would violate the Voting Rights Act, because it would place a restriction only on the City of Detroit, which was predominately African--American. The court ordered the case remanded because it found no basis under 28 U.S.C.S. §§ 1441 or 1443 for federal jurisdiction. Defendants' mere reference to a federal law or federal right was not enough to confer subject matter</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>jurisdiction where the complaint sought to assert only rights arising under state statutes against state officials in relation to a state election. The court stated that it would not allow defendants to take haven in federal court under the guise of providing equal protection for the citizens of Detroit but with a goal of perpetuating their violation of a non-discriminatory state law.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Motion to remand granted.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Weber v. Shelley	United States Court of Appeals for the Ninth Circuit	347 F.3d 1101; 2003 U.S. App. LEXIS 21979	October 28, 2003	Plaintiff voter brought an suit against defendants, the secretary of state and the county registrar of voters, claiming that the lack of a voter--verified paper trail in the county's newly installed touchscreen voting system violated her rights to equal protection and due process. The United States District Court for the Central District of California granted the	On review, the voter contended that use of paperless touch--screen voting systems was unconstitutional and that the trial court erred by ruling her expert testimony inadmissible. The trial court focused on whether the experts' declarations raised genuine issues of material fact about the relative accuracy of the voting systemat issue and	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				secretary and the registrar summary judgment. The voter appealed.	excluded references to news--paper articles and unidentified studies absent any indication that experts normally relied upon them. The appellate court found that the trial court's exclusions were not an abuse of discretion and agreed that the admissible opinions which were left did not tend to show that voters had a lesser chance of having their votes counted. It further found			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>that the use of touchscreen voting systems was not subject to strict scrutiny simply because this particular balloting system might make the possibility of some kinds of fraud more difficult to detect. California made a reasonable, politically neutral and non--discriminatory choice to certify touchscreen systems as an</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					alternative to paper ballots, as did the county in deciding to use such a system. Nothing in the Constitution forbid this choice. The judgment was affirmed.			
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>approval of the use of certain direct recording electronic (DRE) voting systems. One voter applied for a temporary restraining order, or, in the alternative, a preliminary injunction. of a preliminary injunction in a number of ways, including a four--part test that considers (1) likelihood of success on the merits; (2) the possibility of irreparable injury in the</p>	<p>not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be deprived of their fundamental right to vote. The Americans with Disabilities Act, did not require accommodation that would enable disabled persons to vote in a manner that was</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				absence of an injunction; (3) a balancing of the harms; and (4) the public interest.	comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. Ninth Circuit's tests</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					for a preliminary injunction, although phrased differently, require a court to inquire into whether there exists a likelihood of success on the merits, and the possibility of irreparable injury; a court is also required to balance the hardships.			
Fla. Democratic Party v. Hood	Court of Appeal of Florida, First District	884 So. 2d 1148; 2004 Fla. App. LEXIS 16077	October 28, 2004	Petitioner, the Florida Democratic Party, sought review of an emergency rule adopted by the Florida	The Party argued that: (1) the Florida Administrative Code, recast language from the earlier invalidated rule	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Department of State, contending that the findings of immediate danger, necessity, and procedural fairness on which the rule was based were insufficient under Florida law, which required a showing of such circumstances, and Florida case law. This matter followed.</p>	<p>prohibiting a manual recount of overvotes and undervotes cast on a touchscreen machine; (2) the rule did not call for the manual recount of votes to determine voter intent; and (3) the rule created voters who were entitled to manual recounts in close elections and those who were not. The appeals court disagreed. The Department was clearly concerned with the fact that if</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>no rule were in place, the same confusion and inconsistency in divining a voter's intent that attended the 2000 presidential election in Florida, and the same constitutional problems the United States Supreme Court addressed then, might recur in 2004. It was not the court's responsibility to decide the validity of the rule or whether other means were more appropriate.</p>			

014680

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>But, the following question was certified to the Supreme Court: Whether under Fla. Stat. ch. 120.54(4), the Department of State set forth sufficient justification for an emergency rule establishing standards for conducting manual recounts of overvotes and undervotes as applied to touchscreen voting systems? The petition was denied, but a question was</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					certified to the supreme court as a matter of great public importance.			
Wexler v. Lepore	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1097; 2004 U.S. Dist. LEXIS 21344	October 25, 2004	Plaintiffs, a congressman, state commissioners, and a registered voter, brought a § 1983 action against defendants, state officials, alleging that the manual recount procedures for the state's touchscreen paperless voting systems violated their rights under U.S. Const.	The officials claimed that the state had established an updated standard for manual recounts in counties using optical scan systems and touchscreen voting systems, therefore, alleviating equal protection concerns. The court held that the rules prescribing what	No	N/A	No

014632

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				amends. V and XIV. A bench trial ensued.	constituted a clear indication on the ballot that the voter had made a definite choice, as well the rules prescribing additional recount procedures for each certified voting system promulgated pursuant to Florida law complied with equal protection requirements under U.S. Const. amends. V and XIV because the rules prescribed uniform,			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>nondifferential standards for what constituted a legal vote under each certified voting system, as well as procedures for conducting a manual recount of overvotes and undervotes in the entire geographic jurisdiction. The court further held that the ballot images printed during a manual recount pursuant to Florida Administrative Code did not violate Florida</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					law because the manual recount scheme properly reflected a voter's choice. Judgment was entered for the officials. The claims of the congressman, commissioners, and voter were denied.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Reitz v. Rendell	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21813	October 29, 2004	Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a voluntary agreement and submitted it to the court for approval.	The court issued an order to assure that the service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee ballots cast by service members and other	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against the Governor or the Secretary.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.			
United States v. Pennsylvania.	United States District Court for the Middle district of Pennsylvania	2004 U.S. Dist. LEXIS 21167	October 20, 2004	Plaintiff United States sued defendant Commonwealth of Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who	The testimony of the two witnesses offered by the United States did not support its contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so late in the election year.</p>	<p>that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. must consider the following four factors: (1) the likelihood that the applicant will prevail on the merits of the substantive claim; (2) the extent to which the moving party will be irreparably harmed in the absence of injunctive relief; (3) the extent to which the nonmoving party</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					will suffer irreparable harm if the court grants the requested injunctive relief; and (4) the public interest. District courts should only grant injunctive relief after consideration of each of these factors. Motion for injunctive relief denied.			
Bush v. Hillsborough County Canvassing Bd.	United States District Court for the Northern District of Florida	123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265		The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee	Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>state ballots and federal write--in ballots based on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p>	<p>state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					voter to sign an oath that the ballot was mailed from outside the United States and requiring the state election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and relief GRANTED in part and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					postmark, or solely because there was no record of an application for a state absentee ballot.			
Harris v. Florida Elections Canvassing Comm'n	United States District Court for the Northern District of Florida	122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875	December 9, 2000	Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the ballots violated Florida election law.	In two separate cases, plaintiff electors originally sued defendant state elections canvassing commission and state officials in Florida state circuit court, challenging the counting of overseas absentee ballots received after 7 p.m. on election day. Defendant governor removed one case	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>to federal court. The second case was also removed. The court in the second case denied plaintiff's motion for remand and granted a motion to transfer the case to the first federal court under the related case doctrine. Plaintiffs claimed that the overseas ballots violated Florida election law. Defendants argued the deadline was not absolute. The court found Congress did not intend 3 U.S.C.S. § 1 to impose</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					irrational scheduling rules on state and local canvassing officials, and did not intend to disenfranchise overseas voters. The court held the state statute was required to yield to Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. Judgment entered for defendants			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					because a Florida administrative rule requiring a 10--day extension in the receipt of overseas absentee ballots in federal elections was enacted to bring the state into compliance with a federally ordered mandate; plaintiffs were not entitled to relief under any provision of state or federal law.			
Romeu v. Cohen	United States District Court for the Southern District of New York	121 F. Supp. 2d 264; 2000 U.S. Dist. LEXIS 12842	September 7, 2000	Plaintiff territorial resident and plaintiff--intervenor territorial governor moved for summary judgment and defendant federal,	Plaintiff argued that the laws denied him the right to receive a state absentee ballot in violation of the right to vote, the right to travel, the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>state, and local officials moved to dismiss the complaint that alleged that the Voting Rights Amendments of 1970, the Uniform Overseas Citizens Absentee Voting Act, and New York election law were unconstitutional since they denied plaintiff's right to receive an absentee ballot for the upcoming presidential election.</p>	<p>Privileges and Immunities Clause, and the Equal Protection Clause. Plaintiff-intervenor territorial governor intervened on behalf of similarly situated Puerto Rican residents. Defendants' argued that: 1) plaintiff lacked standing; 2) a non-justiciable political question was raised; and 3) the laws were constitutional. The court held that: 1) plaintiff had standing because he made a substantial</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>showing that application for the benefit was futile; 2) whether or not the statutes violated plaintiff's rights presented a legal, not political, question, and there was no lack of judicially discoverable and manageable standards for resolving the matter; and 3) the laws were constitutional and only a constitutional amendment or grant of statehood would enable plaintiff to vote in a presidential election. The</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court granted defendants' motion to dismiss because the laws that prohibited territorial residents from voting by state absentee ballot in presidential elections were constitutional.			
Romeu v. Cohen	United States Court of Appeals for the Second Circuit	265 F.3d 118; 2001 U.S. App. LEXIS 19876	September 6, 2001	Plaintiff territorial resident sued defendants, state and federal officials, alleging that the Uniformed and Overseas Citizens Absentee Voting Act unconstitutionally prevented the territorial resident from voting in his former state of	The territorial resident contended that the UOCAVA unconstitutionally distinguished between former state residents residing outside the United States, who were permitted to vote in their former states, and former state residents	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>residence. The resident appealed the judgment of the United States District Court for the Southern District of New York, which dismissed the complaint.</p>	<p>residing in a territory, who were not permitted to vote in their former states. The court of appeals first held that the UOCAVA did not violate the territorial resident's right to equal protection in view of the valid and not insubstantial considerations for the distinction. The territorial resident chose to reside in the territory and had the same voting rights as other territorial residents, even though such</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>residency precluded voting for federal offices. Further, the resident had no constitutional right to vote in his former state after he terminated his residency in such state, and the consequences of the choice of residency did not constitute an unconstitutional interference with the right to travel. Finally, there was no denial of the privileges and immunities of state citizenship, since the territorial resident was treated</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					identically to other territorial residents. The judgment dismissing the territorial resident's complaint was affirmed.			
Igartua de la Rosa v. United States	United States District Court for the District of Puerto Rico	107 F. Supp. 2d 140; 2000 U.S. Dist. LEXIS 11146	July 19, 2000	Defendant United States moved to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote, as U.S. citizens residing in Puerto Rico, in the upcoming and all subsequent Presidential elections. Plaintiffs urged, among other claims, that their right to vote in	The court denied the motion of defendant United States to dismiss the action of plaintiffs, two groups of Puerto Ricans, seeking a declaratory judgment allowing them to vote in Presidential elections. One group always resided in Puerto Rico and the other became	No	N/A	No

014705

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Presidential elections was guaranteed by the Constitution and the International Covenant on Civil and Political Rights.</p>	<p>ineligible to vote in Presidential elections upon taking up residence in Puerto Rico. Plaintiffs contended that the Constitution and the International Covenant on Civil and Political Rights, guaranteed their right to vote in Presidential elections and that the Uniformed and Overseas Citizens Absentee Voting Act, was unconstitutional in disallowing Puerto Rican citizens to vote</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>by considering them to be within the United States. The court concluded that UOCAVA was constitutional under the rational basis test, and violation of the treaty did not give rise to privately enforceable rights. Nevertheless, the Constitution provided U.S. citizens residing in Puerto Rico the right to participate in Presidential elections. No constitutional amendment was needed. The</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>present political status of Puerto Rico was abhorrent to the Bill of Rights. The court denied defendant United States' motion to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote in Presidential elections as citizens of the United States and of Puerto Rico. The court held that the United States Constitution itself provided plaintiffs with the right to participate in</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Presidential elections.			

**Rough Summary of Department of Justice, Public Integrity Section Activities,
October 2002-January 2006***

014710

Prosecutions and Convictions-- Individuals

Noncitizen voting: 20
Vote buying: 49
Double voting: 12
Registration fraud: 13
Civil Rights: 4
Voter Intimidation: 2
Unclear: 1

Open Investigations (note: a few cases overlap with prosecutions and convictions)

Noncitizen voting: 3
Vote buying: 25
Double voting: 15
Registration fraud: 29
Absentee ballot fraud: 9
Official: 8
Ineligibles: 4
Deceptive Practices: 1
Civil Rights: 14
Intimidation: 6
Other: 2

Cases and Investigations Closed for Lack of Evidence

Civil Rights: 8
Official: 12
Registration Fraud: 12
Absentee Ballot Fraud: 14
Ineligible Voting: 3
Intimidation: 8
Double Voting: 5
Ballot Box Stuffing: 1
Vote Buying: 14
Ballot/machine tampering: 2
Other: 8
Unclear: 3

*Based upon information available as of January 2006

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
James v. Bartlett	Supreme Court of North Carolina	359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146	February 4, 2005	Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed.	The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out-of-precinct provisional	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots to be counted in state and local elections. The candidates failure to challenge the counting of out-of-precinct provisional ballots before the election did not render their action untimely. Reversed and remanded.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	387 F.3d 565; 2004 U.S. App. LEXIS 22320	October 26, 2004	Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast	The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42	No	N/A	No

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Provisional Ballot Cases - 2

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				<p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p>	<p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p>			

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					ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted. Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered			

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					legal votes. Affirmed in part and reversed in part.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional	No	N/A	No

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Provisional Ballot Cases - 2

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					<p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					under § 1983 to raise the federal-law claims. Affirmed.			
Fla. Democratic Party v. Hood	United States District Court for the Northern District of Florida	342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720	October 21, 2004	Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings.	The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise	No	N/A	No

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					under § 1983 to raise the federal-law claims. Affirmed.			
Fla. Democratic Party v. Hood	United States District Court for the Northern District of Florida	342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720	October 21, 2004	Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings.	The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise	No	N/A	No

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					<p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p>			

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					<p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p>			

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					was cast in the proper precinct under State law.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss.	The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,</p>			

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					even if the cost, in terms of uncounted ballots, was regrettable.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	386 F.3d 815; 2004 U.S. App. LEXIS 28765	October 23, 2004	Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements.	On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.			
Hawkins v. Blunt	United States District Court for the Western District of Missouri	2004 U.S. Dist. LEXIS 21512	October 12, 2004	In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved	The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements.	No	N/A	No

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Provisional Ballot Cases - 2

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				for summary judgment.	The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional			

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					ballot, the voter would first be directed to his proper polling place.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551	October 13, 2004	Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal	The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper	No	N/A	No

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Provisional Ballot Cases - 2

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				legislation. Defendants filed a motion to transfer venue.	venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices			

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Provisional Ballot Cases - 2

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					governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a			

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Provisional Ballot Cases - 2

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					mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872	October 19, 2004	Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a	The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p>	<p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first-time voters who registered by mail were consistent with federal and state law.			

Word Search Terms

When performing a case law word search please use this word list and search both federal and state cases. The & (and) is included as the word search connector. You may have to substitute w/5 (within five words) for example instead of &. I want cases after 2000.

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- Election & mandamus
- Election & mandamus & declaratory & judgment
- Election & declaratory & judgment
- Election & theft
- Ballot & box
- Ballot & box & tampering
- Ballot & box & theft
- Ballot & box & stealing
- Paper & ballot
- Paper & ballot & tampering
- Election & officers
- Election & Sheriff
- Over & vote
- Over & votes
- Under & vote
- Under & votes
- Vote & counting
- Vote & count
- Election & counting
- Election & count
- Miscount & votes
- Vote & optical & scan

Election & optical & scan
Election & crime
Election & criminal
Vote & crime
Vote & criminal
Double & voting
Multiple & voting
Dead & voting
Election & counting & violation
Election & counting & error
Vote & counting & violation
Vote & counting & error
Voter & intimidation
Vote & intimidation
Voter & intimidating
Voter & registration
Voter & registration & fictitious & name
Voter & registration & destruction
Vote & registration
Denial & voter & registration
Voter & card
Vote & card
Voter & refuse & vote
Voter & refuse
Vote & refuse
Voter & rolls
Vote & rolls
Voter & identification
Vote & identification
Voter & racial & profiling
Vote & racial & profiling
Voter & racial
Voter & reject
Vote & racial
Vote & reject
Voter & racial & challenge
Vote & racial & challenge
Voter & deny & racial
Vote & deny & racial
Voter & deny & challenge
Voter & deny & reject
Vote & deny & challenge
Vote & deny & reject
Voter & deny & black
Vote & deny & black
Voter & black & challenge

Voter & black & reject
Vote & black & challenge
Vote & black & reject
Voter & black
Vote & black
Voter & deny & African & American
Vote & deny & African & American
Vote & African & American & reject
Voter & African & American & challenge
Voter & African & American & reject
Vote & African & American & challenge
Voter & African & American
Vote & African & American
Election & deny & black
Election & black & challenge
Election & black & reject
Election & black
Election & deny & African & American
Election & African & American
Election & African & American & challenge
Election & African & American & reject
Voter & deny & Hispanic
Vote & deny & Hispanic
Voter & Hispanic & challenge
Voter & Hispanic & reject
Vote & Hispanic & challenge
Vote & Hispanic & reject
Voter & Hispanic
Vote & Hispanic
Election & deny & Hispanic
Election & Hispanic & challenge
Election & Hispanic & reject
Election & Hispanic
Voter & deny & Latino
Vote & deny & Latino
Voter & Latino & challenge
Voter & Latino & reject
Vote & Latino & challenge
Vote & Latino & reject
Voter & Latino
Vote & Latino
Election & deny & Latino
Election & Latino & challenge
Election & Latino & reject
Election & Latino
Voter & deny & Native & American

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Vote & deny & Native & American
Voter & Native & American & challenge
Voter & Native & American & reject
Vote & Native & American & challenge
Vote & Native & American & reject
Voter & Native & American
Vote & Native & American
Election & deny & Native & American
Election & Native & American & challenge
Election & Native & American & reject
Election & Native & American
Ballot security & Native & American
Native & American & & vote & suppression
Native & American & vote & suppress
Native & American & disenfranchisement
Voter & deny & Asian
Vote & deny & Asian
Voter & Asian & challenge
Voter & Asian & reject
Vote & Asian & challenge
Vote & Asian & reject
Voter & Asian
Vote & Asian
Election & deny & Asian
Election & Asian & challenge
Election & Asian & reject
Election & Asian
Ballot & security & Asian
Asian & & vote & suppression
Asian & vote & suppress
Asian & disenfranchisement
Voter & deny & Indian
Vote & deny & Indian
Voter & Indian & challenge
Voter & Indian & reject
Vote & Indian & challenge
Vote & Indian & reject
Voter & Indian
Vote & Indian
Election & deny & Indian
Election & Indian & challenge
Election & Indian & reject
Election & Indian
Ballot & security & Indian
Indian & & vote & suppression
Indian & vote & suppress

Indian & disenfranchisement
Poll & tax
Voting & test
Absentee & ballot
Absentee & ballots
Absentee & ballot & deny
Absentee & ballots & deny
Absentee & ballot & reject
Absentee & ballots & reject
Absentee & ballot & count
Absentee & ballots & count
Absentee & ballot & challenge
Absentee & ballots & challenge
Touch & screen & vote
Touch & screen & voting
Motor & Voter & Act
Overseas & ballots
Overseas & ballots & count
Overseas & ballots & deny
Overseas & ballots & reject
Overseas & ballot
Overseas & ballot & count
Overseas & ballot & deny
Overseas & ballot & reject
Military & ballots
Military & ballots & count
Military & ballots & deny
Military & ballots & reject
Military & ballot
Military & ballot & count
Military & ballot & deny
Military & ballot & reject
Electioneering & polls
Electioneering & within & polls
Unregistered & voter
Unregistered & vote
Unregistered & votes
Prevent & vote
Prevent & voter
Prevent & election
Stop & election
Stop & vote
Stop & voter
Delay & election
Delay & vote
Delay & voter

Close & polls
Close & poll
Open & poll
Open & polls
Prevent & close & polls
Prevent & close & poll
Prevent & open & polls
Prevent & open & poll
Vote & legal & challenge
Voter & legal & challenge
Election & legal & challenge
Election & void
Election & reverse
Vote & void
Vote & police
Voter & police
Poll & police
Vote & law & enforcement
Voter & law & enforcement
Poll & law & enforcement
Vote & deceptive & practices
Voter & deceptive & practices
Election & deceptive & practices
Voter & deceive
Voter & false & information
Voter & eligibility
Vote & felon
Vote & ex & felon
Vote & exfelon
Disenfranchisement
Disenfranchise
Law & election & manipulation
Vote & purging
Vote & purge
Registration & removal
Registration & purging
Registration & purge
Vote & buying
Vote & non & citizen
Vote & noncitizen
Voter & non & citizen
Voter & noncitizen
Vote & alien
Voter & alien
Vote & selective enforcement
Identification & selective

Election & accessible
Election & inaccessible
Election & misinformation
Registration & restrictions
Election & administrator & fraud
Election & official & fraud
Provisional & ballot & deny
Provisional & ballot & denial
Affidavit & ballot & deny
Affidavit & ballot & denial
Absentee & ballot & coerce
Absentee & ballot & coercion
Registration & destruction
Poll & worker & intimidation
Poll & worker & intimidating
Poll & worker & threatening
Poll & worker & abusive
Poll & inspector & intimidation
Poll & inspector & intimidating
Poll & inspector & threatening
Poll & inspector & abusive
Election & official & intimidation
Election & official & intimidating
Election & official & threatening
Election & official & abusive
Poll & judge & intimidation
Poll & judge & intimidating
Poll & judge & threatening
Poll & judge & abusive
Election & judge & intimidation
Election & judge & intimidating
Election & judge & threatening
Election & judge & abusive
Poll & monitor & intimidation
Poll & monitor & intimidating
Poll & monitor & threatening
Poll & monitor & abusive
Election & monitor & intimidation
Election & monitor & intimidating
Election & monitor & threatening
Election & monitor & abusive
Poll & observer & intimidation
Poll & observer & intimidating
Poll & observer & threatening
Poll & observer & abusive
Election & observer & intimidation

Election & observer & intimidating
Election & observer & threatening
Election & observer & abusive
Voter & deter
Vote & deterrence
Voter & deterrence
Ballot & integrity
Ballot & security
Ballot & security & minority
Ballot & security & black
Ballot & security & African & American
Ballot & security & Latino
Ballot & security & Hispanic
Vote & suppression
Minority & vote & suppression
Black & & vote & suppression
African & American & vote & suppression
Latino & vote & suppression
Hispanic & vote & suppression
Vote & suppress
Minority & vote & suppress
African American & vote & suppress
Latino & vote & suppress
Black & vote & suppress
Minority & disenfranchisement
African & American & disenfranchisement
Black & disenfranchisement
Latino & disenfranchisement
Hispanic & disenfranchisement
Vote & disenfranchisement
Voter & disenfranchisement
Vote & discourage
Voter & discourage
Vote & depress
Poll & watchers & challenge
Poll & watchers & intimidate
Poll & watcher & intimidating
Poll & watchers & intimidation
Poll & watcher & abusive
Poll & watcher & threatening
Jim & Crow
Literacy & test
Voter & harass
Voter & harassment
Vote & mail & fraud
Poll & guards

Election & consent & decree

Vote & barrier

Voting & barrier

Voter & barrier

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Election & theft
Ballot & box
Ballot & box & tampering
Ballot & box & theft
Ballot & box & stealing
Paper & ballot
Paper & ballot & tampering
Election & officers
Election & Sheriff
Over & vote
Over & votes
Under & vote
Under & votes
Vote & counting
Vote & count
Election & counting
Election & count
Miscount & votes
Vote & optical & scan

Election & optical & scan
Election & crime
Election & criminal
Vote & crime
Vote & criminal
Double & voting
Multiple & voting
Dead & voting
Election & counting & violation
Election & counting & error
Vote & counting & violation
Vote & counting & error
Voter & intimidation
Voter & intimidating
Vote & intimidation
Voter & registration
Vote & registration
Denial & voter & registration
Voter & card
Vote & card
Voter & refuse & vote
Voter & refuse
Vote & refuse
Voter & rolls
Vote & rolls
Voter & identification
Vote & identification
Voter & racial & profiling
Vote & racial & profiling
Voter & racial
Voter & reject
Vote & racial
Vote & reject
Voter & racial & challenge
Vote & racial & challenge
Voter & deny & racial
Vote & deny & racial
Voter & deny & challenge
Voter & deny & reject
Vote & deny & challenge
Vote & deny & reject
Voter & deny & black
Vote & deny & black
Voter & black & challenge
Voter & black & reject
Vote & black & challenge

Vote & black & reject
Voter & black
Vote & black
Voter & deny & African & American
Vote & deny & African & American
Vote & African & American & reject
Voter & African & American & challenge
Voter & African & American & reject
Vote & African & American & challenge
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Vote & African & American
Election & deny & black
Election & black & challenge
Election & black & reject
Election & black
Election & deny & African & American
Election & African & American
Election & African & American & challenge
Election & African & American & reject
Voter & deny & Hispanic
Voter & deny & Latino
Vote & deny & Hispanic
Vote & deny & Latino
Voter & Hispanic & challenge
Voter & Latino & challenge
Voter & Hispanic & reject
Voter & Latino & reject
Vote & Hispanic & challenge
Vote & Latino & challenge
Vote & Hispanic & reject
Vote & Latino & reject
Voter & Hispanic
Voter & Latino
Vote & Hispanic
Vote & Latino
Election & deny & Hispanic
Election & deny & Latino
Election & Hispanic & challenge
Election & Latino & challenge
Election & Hispanic & reject
Election & Latino & reject
Election & Hispanic
Election & Latino
Poll & tax
Voting & test
Absentee & ballot

Absentee & ballots
Absentee & ballot & deny
Absentee & ballots & deny
Absentee & ballot & reject
Absentee & ballots & reject
Absentee & ballot & count
Absentee & ballots & count
Absentee & ballot & challenge
Absentee & ballots & challenge
Touch & screen & vote
Touch & screen & voting
Motor & Voter & Act
Overseas & ballots
Overseas & ballots & count
Overseas & ballots & deny
Overseas & ballots & reject
Overseas & ballot
Overseas & ballot & count
Overseas & ballot & deny
Overseas & ballot & reject
Military & ballots
Military & ballots & count
Military & ballots & deny
Military & ballots & reject
Military & ballot
Military & ballot & count
Military & ballot & deny
Military & ballot & reject
Electioneering & polls
Electioneering & within & polls
Unregistered & voter
Unregistered & vote
Unregistered & votes
Prevent & vote
Prevent & voter
Prevent & election
Stop & election
Stop & vote
Stop & voter
Delay & election
Delay & vote
Delay & voter
Close & poll
Open & poll
Open & polls
Close & polls

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Prevent & close & polls
Prevent & close & poll
Prevent & open & polls
Prevent & open & poll
Vote & legal & challenge
Voter & legal & challenge
Election & legal & challenge
Election & void
Election & reverse
Vote & void
Vote & police
Voter & police
Poll & police
Vote & law & enforcement
Voter & law & enforcement
Poll & law & enforcement
Vote & deceptive & practices
Voter & deceptive & practices
Election & deceptive & practices
Voter & deceive
Voter & false & information
Voter & eligibility
Vote & felon
Vote & exfelon
Vote & ex & felon
Disenfranchisement
Disenfranchise
Law & election & manipulation
Vote & purging
Vote & purge
Registration & removal
Registration & purging
Registration & purge
Vote & buying
Vote & noncitizen
Vote & non & citizen
Voter & noncitizen
Voter & non & citizen
Vote & selective & enforcement
Identification & selective
Election & accessible
Election & inaccessible
Election & misinformation
Registration & restrictions
Election & administrator & fraud
Election & official & fraud

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Provisional & ballot & deny
Provisional & ballot & denial
Affidavit & ballot & deny
Affidavit & ballot & denial
Absentee & ballot & coerce
Absentee & ballot & coercion
Registration & destruction
Poll & worker & intimidation
Poll & worker & intimidating
Poll & worker & threatening
Poll & worker & abusive
Poll & inspector & intimidation
Poll & inspector & intimidating
Poll & inspector & threatening
Poll & inspector & abusive
Election & official & intimidation
Election & official & intimidating
Election & official & threatening
Election & official & abusive
Voter & deter
Vote & deterrence
Voter & deterrence
Ballot & integrity
Ballot & security
Ballot & security & minority
Ballot & security & black
Ballot & security & African & American
Ballot & security & Latino
Ballot & security & Hispanic
Vote & suppression
Minority & vote & suppression
Black & vote & suppression
African & American & vote & suppression
Latino & vote & suppression
Hispanic & vote & suppression
Vote & suppress
Minority & vote & suppress
African & American & vote & suppress
Latino & vote & suppress
Minority & disenfranchisement
African & American & disenfranchisement
Black & disenfranchisement
Latino & disenfranchisement
Hispanic & disenfranchisement
Vote & disenfranchisement
Voter & disenfranchisement

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Vote & discourage
Voter & discourage
Vote & depress
Poll & watchers & challenge
Poll & watchers & intimidate
Poll & watcher & intimidating
Poll & watchers & intimidation
Poll & watcher & abusive
Poll & watcher & threatening
Jim & Crow
Literacy & test
Voter & harass
Voter & harassment
Vote & mail & fraud
Poll & guards
Election & consent & decree
Vote & barrier
Voting & barrier
Voter & barrier

Interviews

Common Themes

- There is virtually universal agreement that absentee ballot fraud is the biggest problem, with vote buying and registration fraud coming in after that. The vote buying often comes in the form of payment for absentee ballots, although not always. Some absentee ballot fraud is part of an organized effort; some is by individuals, who sometimes are not even aware that what they are doing is illegal. Voter registration fraud seems to take the form of people signing up with false names. Registration fraud seems to be most common where people doing the registration were paid by the signature.
- There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, “dead” voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that it is impossible to show the extent to which it happens, but do point to instances in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud, although it may create the perception that vote fraud is possible. Those who believe there is more polling place fraud than reported/investigated/prosecuted believe that registration fraud does lead to fraudulent votes. Jason Torchinsky from the American Center for Voting Rights is the only interviewee who believes that polling place fraud is widespread and among the most significant problems in the system.
- Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression. However there is evidence of some continued outright intimidation and suppression, especially in some Native American communities. A number of people also raise the problem of poll workers engaging in harassment of minority voters. Other activities commonly raised were the issue of polling places being moved at the last moment, unequal distribution of voting machines, videotaping of voters at the polls, and targeted misinformation campaigns.
- Several people indicate – including representatives from DOJ -- that for various reasons, the Department of Justice is bringing fewer voter intimidation and suppression cases now and is focusing on matters such as noncitizen voting, double voting and felon voting. While the civil rights section continues to focus on systemic patterns of malfeasance, the public integrity section is focusing now on individuals, on isolated instances of fraud.
- The problem of badly kept voter registration lists, with both ineligible voters remaining on the rolls and eligible voters being taken off, remains a common concern. A few people are also troubled by voters being on registration lists in two states. They said that there was no evidence that this had led to double voting, but it opens the door to the possibility. There is great hope that full implementation of the new requirements of HAVA – done well, a major caveat – will reduce this problem dramatically.

Common Recommendations:

- Many of those interviewed recommend better poll worker training as the best way to improve the process; a few also recommended longer voting times or voting on days other than election day (such as weekends) but fewer polling places so only the best poll workers would be employed
- Many interviewed support stronger criminal laws and increased enforcement of existing laws with respect to both fraud and intimidation. Advocates from across the spectrum expressed frustration with the failure of the Department of Justice to pursue complaints.
 - With respect to the civil rights section, John Tanner indicated that fewer cases are being brought because fewer are warranted – it has become increasingly difficult to know when allegations of intimidation and suppression are credible since it depends on one’s definition of intimidation, and because both parties are doing it. Moreover prior enforcement of the laws has now changed the entire landscape – race based problems are rare now. Although challenges based on race and unequal implementation of identification rules would be actionable, Mr. Tanner was unaware of such situations actually occurring and the section has not pursued any such cases.
 - Craig Donsanto of the public integrity section says that while the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate claims of fraud, the number of cases the department is investigating and the number of indictments the section is pursuing are both up dramatically. Since 2002, the department has brought more cases against alien voters, felon voters and double voters than ever before. Mr. Donsanto would like more resources so it can do more and would like to have laws that make it easier for the federal government to assume jurisdiction over voter fraud cases.
- A couple of interviewees recommend a new law that would make it easier to criminally prosecute people for intimidation even when there is not racial animus.
- Several advocate expanded monitoring of the polls, including some associated with the Department of Justice.
- Almost everyone hopes that administrators will maximize the potential of statewide voter registration databases to prevent fraud
- Challenge laws, both with respect to pre-election day challenges and challengers at the polls, need to be revised by all states to ensure they are not used for purposes of wrongful disenfranchisement and harassment
- Several people advocate passage of Senator Barak Obama’s “deceptive practices” bill
- There is a split on whether it would be helpful to have nonpartisan election officials – some indicated they thought even if elections officials are elected nonpartisanly they will carry out their duties in biased ways nonetheless. However, most agree that elections officials pursuing partisan agendas is a problem that must be addressed in some fashion. Suggestions included moving

election responsibilities out of the secretary of states' office; increasing transparency in the process; and enacting conflict of interest rules.

- A few recommend returning to allowing use of absentee ballots “for cause” only if it were politically feasible.
- A few recommend enacting a national identification card, including Pat Rogers, an attorney in New Mexico, and Jason Torchinsky from ACVR, who advocates the scheme contemplated in the Carter-Baker Commission Report.
- A couple of interviewees indicated the need for clear standards for the distribution of voting machines

Interview with Douglas Webber, Assistant Indiana Attorney General

February 15, 2006

Background

Mr. Webber was an attorney for the Marion County Election Board and was also part of the Indianapolis Ballot Security Team (sometimes called the Goon Squad). This Team was a group of attorneys well trained in election law whose mission was to enforce ballot security.

Litigation

Status of litigation in Indiana: On January 12 the briefing was completed. The parties are waiting for a decision from the U.S. district judge. The judge understood that one of the parties would seek a stay from the 7th Circuit Court of Appeals. The parties anticipate a decision in late March or early April. Mr. Webber did the discovery and depositions for the litigation. Mr. Webber feared the plaintiffs were going to state in their reply brief that HAVA's statewide database requirement would resolve the problems alleged by the state. However, the plaintiffs failed to do so, relying on a Motor Voter Act argument instead. Mr. Webber believes that the voter ID at issue will make the system much more user-friendly for the poll workers. The Legislature passed the ID legislation, and the state is defending it, on the basis of the problem of the *perception* of fraud.

Incidents of fraud and intimidation

Mr. Webber thinks that no one can put his or her thumb on whether there has been voter fraud in Indiana. For instance, if someone votes in place of another, no one knows about it. There have been no prosecuted cases of polling place fraud in Indiana. There is no recorded history of documented cases, but it does happen. In the litigation, he used articles from around the country about instances of voter fraud, but even in those examples there were ultimately no prosecutions, for example the case of Milwaukee. He also stated in the litigation that there are all kinds of examples of dead people voting--totaling in the hundreds of thousands of votes across the country.

One interesting example of actual fraud in Indiana occurred when a poll worker, in a poll using punch cards, glued the chads back and then punched out other chads for his candidate. But this would not be something that would be addressed by an ID requirement.

He also believes that the perception that the polls are loose can be addressed by the legislature. The legislature does not need to wait to see if the statewide database solve the problems and therefore affect the determination of whether an ID requirement is necessary. When he took the deposition of the Republican Co-Director, he said he thought Indiana was getting ahead of the curve. That is, there have been problems around the country, and confidence in elections is low. Therefore Indiana is now in front of getting that confidence back.

Mr. Webber stated that the largest vote problem in Indiana is absentee ballots. Absentee ballot fraud and vote buying are the most documented cases. It used to be the law that applications for absentee ballots could be sent anywhere. In one, case absentee votes were exchanged for “a job on election day”---meaning one vote for a certain price. The election was contested and the trial judge found that although there was vote fraud, the incidents of such were less than the margin of victory and so he refused to overturn the election. Mr. Webber appealed the case for the state and argued the judge used the wrong statute. The Indiana Supreme Court agreed and reversed. Several people were prosecuted as a result – those cases are still pending.

Process

In Indiana, voter complaints first come to the attorney for the county election board who can recommend that a hearing be held. If criminal activity was found, the case could be referred to the county prosecutor or in certain instances to the Indiana Attorney General’s Office. In practice, the Attorney General almost never handles such cases.

Mr. Webber has had experience training county of election boards in preserving the integrity and security of the polling place from political or party officials. Mr. Webber stated that the Indiana voter rolls need to be culled. He also stated that in Southern Indiana a large problem was vote buying while in Northern Indiana a large problem was based on government workers feeling compelled to vote for the party that gave them their jobs.

Recommendations

- Mr. Webber believes that all election fraud and intimidation complaints should be referred to the Attorney General’s Office to circumvent the problem of local political prosecutions. The Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes. At the local level, everyone knows each other, making it harder prosecute.
- Indiana currently votes 6 am to 6 pm on a weekday. Government workers and retirees are the only people who are available to work the polls. Mr. Webber suggested that the biggest change should be to move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.
- Early voting at the clerk’s office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk’s office. This should be expanded to other polling places in addition to that of the county clerk.
- Finally, Mr. Webber believes polling places should be open longer, run more professionally but that there needs to be fewer of them so that they are staffed by only the best, most professional people.

Interview with Commissioner Harry Van Sickle and Deputy Chief Counsel to the Secretary of State Larry Boyle, State of Pennsylvania

March 1, 2006

As Commissioner Van Sickle has only been in office for about a year, Mr. Boyle answered most of our questions.

Fraud and Intimidation

Neither Van Sickle nor Boyle was aware of any fraud of any kind in the state of Pennsylvania over the last five years. They are not aware of the commission of any deceptive practices, such as flyers that intentionally misinform as to voting procedures. They also have never heard of any incidents of voter intimidation. With respect to the mayoral election of 2003, the local commission would know about that.

Since the Berks County case of 2003, where the Department of Justice found poll workers who treated Latino voters with hostility among other voting rights violations, the Secretary's office has brought together Eastern Pennsylvania election administrators and voting advocates to discuss the problems. As a result, other counties have voluntarily chosen to follow the guidance of the Berks County federal court order.

Regarding the allegations of fraud that surrounded the voter identification debate, Mr. Boyle said was not aware of any instances of fraud involving identity. He believes this is because Pennsylvania has laws in place to prevent this. For example, in 2002 the state legislature passed an ID law that is stricter than HAVA's – it requires all first time voters to present identification. In addition, the SURE System – the state's statewide voter registration database – is a great anti-fraud mechanism. The system will be in place statewide in the May 2006 election.

In addition, the state took many steps before the 2004 election to make sure it would be smooth. They had attorneys in the counties to consult on problems as well as staff at the central office to take calls regarding problems. In addition, in 2004 the state used provisional ballots for the first time. This resolved many of the problems that used to occur on Election Day.

Mr. Boyle is not aware of any voter registration fraud. This is because when someone registers to vote, the administrator does a duplicate check. In addition, under new laws a person registering to vote must provide their drivers license or Social Security number which are verified through the Department of Motor Vehicles and the Social Security Administration. Therefore, it would be unlikely that someone would be able to register to vote falsely.

Process

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Most problems are dealt with at the local level and do not come within the review of the Secretary of State's office. For instance, if there is a complaint of intimidation, this is generally dealt with by the county courts which are specially designated solely to election cases on Election Day. The Secretary does not keep track of these cases. Since the passage of NVRA and HAVA counties will increasingly call the office when problems arise.

Recommendations

Mr. Boyle suggested we review the recommendations of the Pennsylvania Election Reform Task Force which is on the Secretary's website. Many of those recommendations have been introduced in the legislature.

Interview with Craig Donsanto, Director, Public Integrity Section, U.S. Department of Justice

January 13, 2006

Questions

How are Prosecution Decisions Made?

Craig Donsanto must approve all investigations that go beyond a preliminary stage, all charges, search warrant applications and subpoenas and all prosecutions. The decision to investigate is very sensitive because of the public officials involved. If a charge seems political, Donsanto will reject it. Donsanto gives possible theories for investigation. Donsanto and Noel Hillman will decide whether to farm out the case to an AUSA. Donsanto uses a concept called predication. In-other-words, there must be enough evidence to suggest a crime has been committed. The method of evaluation of this evidence depends on the type of evidence and its source. There are two types of evidence---factual (antisocial behavior) and legal (antisocial behavior leading to statutory violations). Whether an indictment will be brought depends on the likelihood of success before a jury. Much depends on the type of evidence and the source. Donsanto said he "knows it when he sees it." Donsanto will only indict if he is confident of a conviction assuming the worst case scenario – a jury trial.

A person under investigation will first receive a target letter. Often, a defendant who gets a target letter will ask for a departmental hearing. The defendant's case will be heard by Donsanto and Hillman. On occasion, the assistant attorney general will review the case. The department grants such hearings easily because such defendants are likely to provide information about others involved.

The Civil Rights Division, Voting Rights Section makes its own decisions on prosecution. The head of that division is John Tanner. There is a lot of cooperation between

Does the Decision to Prosecute Incorporate Particular Political Considerations within a State Such as a One Party System or a System in which the Party in Power Controls the Means of Prosecution and Suppresses Opposition Complaints?

Yes. Before, the department would leave it to the states. Now, if there is racial animus involved in the case, there is political bias involved, or the prosecutor is not impartial, the department will take it over.

Does it Matter if the Complaint Comes from a Member of a Racial Minority?

No. But if the question involves racial animus, that has also always been an aggravating factor, making it more likely the Department will take it over

What Kinds of Complaints Would Routinely Override Principles of Federalism?

Federalism is no longer big issue. DOJ is permitted to prosecute whenever there is a candidate for federal office.

Are There Too Few Prosecutions?

DOJ can't prosecute everything.

What Should Be Done to Improve the System?

The problem is asserting federal jurisdiction in non-federal elections. It is preferable for the federal government to pursue these cases for the following reasons: federal districts draw from a bigger and more diverse jury pool; the DOJ is politically detached; local district attorneys are hamstrung by the need to be re-elected; DOJ has more resources – local prosecutors need to focus on personal and property crimes---fraud cases are too big and too complex for them; DOJ can use the grand jury process as a discovery technique and to test the strength of the case.

In *U.S. v. McNally*, the court ruled that the mail fraud statute does not apply to election fraud. It was through the mail fraud statute that the department had routinely gotten federal jurisdiction over election fraud cases. 18 USC 1346, the congressional effort to “fix” *McNally*, did not include voter fraud.

As a result, the department needs a new federal law that allows federal prosecution whenever a federal instrumentality is used, e.g. the mail, federal funding, interstate commerce. The department has drafted such legislation, which was introduced but not passed in the early 1990s. A federal law is needed that permits prosecution in any election where any federal instrumentality is used.

Other Information

The Department has held four symposia for DEOs and FBI agents since the initiation of the Ballot Access and Voting Integrity Initiative. In 2003, civil rights leaders were invited to make speeches, but were not permitted to take part in the rest of the symposium. All other symposia have been closed to the public. (Peg will be sending us the complete training materials used at those sessions. These are confidential and are the subject of FOIA litigation).

There are two types of attorneys in the division: prosecutors, who take on cases when the jurisdiction of the section requires it; the US Attorney has recused him or herself; or when the US Attorney is unable to handle the case (most frequent reason) and braintrust attorneys who analyze the facts, formulate theories, and draft legal documents.

Cases:

Donsanto provided us with three case lists: Open cases (still being investigated) as of January 13, 2006 – confidential; election fraud prosecutions and convictions as a result of the Ballot Access and Voting Integrity Initiative October 2002-January 13, 2006 and cases closed for lack of evidence as of January 13, 2006

If we want more documents related to any case, we must get those documents from the states. The department will not release them to us.

Although the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate complaints of fraud, *the number of cases that the department is investigating and the number of indictments the department is pursuing are both up dramatically.*

Since 2002, the department has brought more cases against alien voters, felon voters, and double voters than ever before. Previously, cases were only brought when there was a pattern or scheme to corrupt the process. Charges were not brought against individuals – those cases went un-prosecuted. This change in direction, focus, and level of aggression was by the decision of the Attorney General. The reason for the change was for deterrence purposes.

The department is currently undertaking three pilot projects to determine what works in developing the cases and obtaining convictions and what works with juries in such matters to gain convictions:

Felon voters in Milwaukee.

Alien voters in the Southern District of Florida. FYI – under 18 USC 611, to prosecute for “alien voting” there is no intent requirement. Conviction can lead to deportation. Nonetheless, the department feels compelled to look at mitigating factors such as was the alien told it was OK to vote, does the alien have a spouse that is a citizen.

Double voters in a variety of jurisdictions.

The department does not maintain records of the complaints that come in from DEOs, U.S attorneys and others during the election that are not pursued by the department. Donsanto asserted that U.S. attorneys never initiate frivolous investigations.

According to the new handbook, the department can take on a case whenever there is a federal candidate on the ballot

Interview with Heather Dawn Thompson, Director of Government Relations, National Congress of American Indians

March 22, 2006

Background

Thompson is a member of the Cheyenne River Sioux tribe in South Dakota. For many years she worked locally on elections doing poll monitoring and legal work, from a nonpartisan perspective. In 2004, she headed the Native Vote Election Protection, a project run by the National Congress of American Indians, and was in charge of monitoring all Native American voting sites around the country, focusing on 10 or 15 states with the biggest Native populations. She is now permanently on staff of the National Congress of American Indians as the Director of Government relations. NCAI works jointly with NARF as well as the Election Protection Coalition.

Recent trends

Native election protection operations have intensified recently for several reasons. While election protection efforts in Native areas have been ongoing, leaders realized that they were failing to develop internal infrastructure or cultivate locally any of the knowledge and expertise which would arrive and leave with external protection groups.

Moreover, in recent years partisan groups have become more aware of the power of the native vote, and have become more active in native communities. This has partly resulted in an extreme increase in voter intimidation tactics. As native communities are easy to identify, easy to target, and generally dominated by a single party, they are especially vulnerable to such tactics.

Initially, reports of intimidation were only passed along by word of mouth. But it became such a problem in the past 5 to 6 years that tribal leaders decided to raise the issue to the national level. Thompson points to the Cantwell election in 2000 and the Johnson election in South Dakota in 2002 as tipping points where many began to realize the Indian vote could matter in Senate and national elections.

Thompson stressed that Native Vote places a great deal of importance on being nonpartisan. While a majority of native communities vote Democratic, there are notable exceptions, including communities in Oklahoma and Alaska, and they have both parties engaging in aggressive tactics. However, she believes the most recent increase in suppression and intimidation tactics have come from Republican Party organizations.

Nature of Suppression/Intimidation of Native Voters

Thompson categorizes suppression into judge related and poll-watcher related incidents, both of which may be purposeful or inadvertent, as well as longstanding legal-structural constraints.

Structural problems

One example of inadvertent suppression built into the system stems from the fact that many Indian communities also include significant numbers of non-Indians due to allotment. Non-Indians tend to be most active in the state and local government while Indians tend to be more involved in the tribal government. Thus, the individuals running elections end up being non-Indian. Having Indians vote at polling places staffed by non-Indians often results in incidents of disrespect towards Native voters (Thompson emphasized the considerable racism which persists against Indians in these areas). Also, judges aren't familiar with Indian last names and are more dismissive of solving discrepancies with native voters.

Structural problems also arise from laws which mandate that the tribal government cannot run state or local elections. In places like South Dakota, political leaders used to make it intentionally difficult for Native Americans to participate in elections. For example, state, local and federal elections could not be held in the same location as tribal elections, leading to confusion when tribal and other elections are held in different locations. Also, it is common to have native communities with few suitable sites, meaning that a state election held in a secondary location can suddenly impose transportation obstacles.

Photo ID Issues

Thompson believes both state level and HAVA photo ID requirements have a considerable negative impact. For a number of reasons, many Indian voters don't have photo ID. Poor health care and poverty on reservations means that many children are born at home, leading to a lack of birth certificates necessary to obtain ID. Also, election workers and others may assume they are Hispanic, causing additional skepticism due to citizenship questions. There is a cultural issue as well—historically, whenever Indians register with the federal government it has been associated with a taking of land or removal of children. Thus many Indians avoid registering for anything with the government, even for tribal ID.

Thompson also offered examples of how the impact of ID requirements had been worsened by certain rules and the discriminatory way they have been carried out. In the South Dakota special election of 2003, poll workers told Native American voters that if they did not have ID with them and they lived within sixty miles of the precinct, the voter had to come back with ID. The poll workers did not tell the voters that they could vote by affidavit ballot and not need to return, as required by law. This was exacerbated by the fact that the poll workers didn't know the voters—as would be the case with non-Indian poll workers and Indian voters. Many left the poll site without voting and did not return.

In Minnesota, the state tried to prohibit the use of tribal ID's for voting outside of a reservation, even though Minnesota has a large urban Native population. Thompson believes this move was very purposeful, and despite any reasonable arguments from the Secretary of State, they had to file a lawsuit to stop the rule. They were very surprised to find national party representatives in the courtroom when they went to deal with lawsuit, representatives who could only have been alerted through a discussion with the Secretary of State.

Partisan Poll-Monitoring

Thompson believes the most purposeful suppression has been perpetrated by the party structures on an individual basis, of which South Dakota is a great example.

Some negative instances of poll monitoring are not purposeful. Both parties send in non-Indian, non-Western lawyers, largely from the East Coast, which can lead to uncomfortable cultural clashes. These efforts display a keen lack of understanding of these communities and the best way to negotiate within in them. But while it may be intimidating, it is not purposeful.

Yet there are also many instances of purposeful abuse of poll monitoring. While there were indeed problems during the 2002 Johnson election, it was small compared to the Janklow special election. Thompson says Republican workers shunned cultural understanding outreach, and had an extensive pamphlet of what to say at polls and were very aggressive about it. In one tactic, every time a voter would come up with no ID, poll monitors would repeat “You can’t vote” over and over again, causing many voters to leave. This same tactic appeared across reservations, and eventually they looked to the Secretary of State to intervene.

In another example, the head of poll watchers drove from poll to poll and told voters without IDs to go home, to the point where the chief of police was going to evict him from the reservation. In Minnesota, on the Red Lake reservation, police actually did evict an aggressive poll watcher—the fact that the same strategies are employed several hundred miles apart points to standardized instructions.

None of these incidents ever went to court. Thompson argues this is due to few avenues for legal recourse. In addition, it is inherently difficult to settle these things, as they are he said-she said incidents and take place amidst the confusion of Election Day. Furthermore, poll watchers know what the outline of the law is, and they are careful to work within those parameters, leaving little room for legal action.

Other seeming instances of intimidation may be purely inadvertent, such as when, in 2002, the U.S. Attorney chose Election Day to give out subpoenas, and native voters stayed in their homes. In all fairness, she believes this was a misunderstanding.

The effect of intimidation on small communities is especially strong and is impossible to ultimately measure, as the ripple effect of rumors in insular communities can’t be traced. In some communities, they try to combat this by using the Native radio to encourage people to vote and dispel myths.

She has suggestions for people who can describe incidents at a greater level of detail if interested.

Vote Buying and Fraud

They haven’t found a great deal of evidence on vote-buying and fraud. When cash is offered to register voters, individuals may abuse this, although Thompson believes this is not necessarily

unique to the Native community, but a reflection of high rates of poverty. This doesn't amount to a concerted effort at conspiracy, but instead represents isolated incidents of people not observing the rules. While Thompson believes looking into such incidents is a completely fair inquiry, she also believes it has been exploited for political purposes and to intimidate. For example, large law enforcement contingents were sent to investigate these incidents. As Native voters tend not to draw distinctions between law enforcement and other officials, this made them unlikely to help with elections.

Remedies

As far as voter suppression is concerned, Native Vote has been asking the Department of Justice to look into what might be done, and to place more emphasis on law enforcement and combating intimidation. They have been urging the Department to focus on this at least much as it is focusing on enforcement of Section 203. Native groups have complained to DOJ repeatedly and DOJ has the entire log of handwritten incident reports they have collected. Therefore, Thompson recommends more DOJ enforcement of voting rights laws with respect to intimidation. People who would seek to abuse the process need to believe a penalty will be paid for doing so. Right now, there is no recourse and DOJ does not care, so both parties do it because they can.

Certain states should rescind bars on nonpartisan poll watchers on Election Day; Thompson believes this is contrary to the nonpartisan, pro-Indian presence which would best facilitate voting in Native communities.

As discussed above, Thompson believes ID requirements are a huge impediment to native voters. At a minimum, Thompson believes all states should be explicit about accepting tribal ID on Election Day.

Liberalized absentee ballot rules would also be helpful to Native communities. As many Indian voters are disabled and elderly, live far away from their precinct, and don't have transportation, tribes encourage members to vote by absentee ballot. Yet obstacles remain. Some voters are denied a chance to vote if they have requested a ballot and then show up at the polls. Thompson believes South Dakota's practice of tossing absentee ballots if a voter shows up at the ED would serve as an effective built-in protection. In addition, she believes there should be greater scrutiny of GOTV groups requesting absentee ballots without permission. Precinct location is a longstanding issue, but Thompson recognizes that states have limited resources. In the absence of those resources, better absentee ballot procedures are needed.

Basic voter registration issues and access are also important in native communities and need to be addressed.

Thompson is mixed on what restrictions should be placed on poll watcher behavior, as she believes open elections and third party helpers are both important. However, she would be willing to explore some sort of stronger recourse and set of rules concerning poll watchers' behavior. Currently, the parties are aware that no recourse exists, and try to get away with what they will. This is not unique to a single party—both try to stay within law while shaking people up. The existing VRA provision is 'fluffy'—unless you have a consent decree, you have very

little power. Thompson thinks a general voter intimidation law that is left a bit broad but that nonetheless makes people aware of some sort of kickback could be helpful.

Interview with Jason Torchinsky, former attorney with the Civil Rights Section of the Department of Justice, assistant general counsel for the American Center for Voting Rights (ACVR) and Robin DeJarnette, political consultant for C4 and C5 organizations and executive director for the ACVR.

February 16, 2006

ACVR Generally

Other officers of the ACVR-Thor Hearne II-general counsel and Brian Lunde, former executive director of the Democratic National Committee.

Board of Directors of ACVR-Brian Lunde, Thor Hearne II, and Cameron Quinn

ACVR works with a network of attorneys around the country and has been recently involved with lobbying in PA and MO.

Regarding the August 2005 Report

ACVR has not followed up on any of the cases it cited in the 2005 report to see if the allegations had been resolved in some manner. Mr. Torchinsky stated that there are problems with allegations of fraud in the report and prosecution---just because there was no prosecution, does not mean there was no vote fraud. He believes that it is very hard to come up with a measure of voter fraud short of prosecution. Mr. Torchinsky does not have a good answer to resolve this problem.

P. 35 of the Report indicates that there were coordinated efforts by groups to coordinate fraudulent voter registrations. P. 12 of the Ohio Report references a RICO suit filed against organizations regarding fraudulent voter registrations. Mr. Torchinsky does not know what happened in that case. He stated that there was a drive to increase voter registration numbers regardless of whether there was an actual person to register. He stated that when you have an organization like ACORN involved all over the place, there is reason to believe it is national in scope. When it is the same groups in multiple states, this leads to the belief that it is a concerted effort.

Voting Problems

Mr. Torchinsky stated there were incidents of double voting---ex. a double voter in Kansas City, MO. If the statewide voter registration database requirement of HAVA is properly implemented, he believes it will stop multiple voting in the same state. He supports the HAVA requirement, if implemented correctly. Since Washington State implemented its statewide database, the Secretary of State has initiated investigations into felons who voted. In Philadelphia the major problem is permitting polling places in private homes and bars – even the homes of party chairs.

Mr. Torchinsky believes that voter ID would help, especially in cities in places like Ohio and Philadelphia, PA. The ACVR legislative fund supports the Real ID requirements suggested by the Carter-Baker Commission. Since federal real ID requirements will be in place in 2010, any objection to a voter ID requirement should be moot.

Mr. Torchinsky stated that there are two major poll and absentee voting problems---(1) fraudulent votes-ex. dead people voting in St. Louis and (2) people voting who are not legally eligible-ex. felons in most places. He also believes that problems could arise in places that still transport paper ballots from the voting location to a counting room. However, he does not believe this is as widespread a problem now as it once was.

Suggestions

Implement the Carter-Baker Commission recommendations because they represent a reasonable compromise between the political parties.

**Interview Sharon Priest, former Secretary of State, Arkansas
January 24, 2006**

Process:

When there is an allegation of election fraud or intimidation, the county clerk refers it to the local district attorney. Most often, the DA does not pursue the claim. There is little that state administrators can do about this because in Arkansas, county clerks are partisanly elected and completely autonomous. Indeed, county clerks have total authority to determine who is an eligible voter.

Data:

There is very little data collected in Arkansas on fraud and intimidation cases. Any information there might be stays at the county level. This again is largely because the clerks have so much control and authority, and will not release information. Any statewide data that does exist might be gotten from Susie Storms from the State Board of Elections.

Most Common Problems

The perception of fraud is much greater than the actual incidence of fraud.

- The DMV does not implement NVRA in that it does not take the necessary steps when providing the voter registration forms and does not process them properly. This leads to both ineligible voters potentially getting on the voting rolls (e.g. noncitizens, who have come to get a drivers license, fill out a voter registration form having no intention of actually voting) and voter thinking they are registered to vote to find they are not on the list on Election Day. Also, some people think they are automatically registered if they have applied for a drivers license.
- Absentee ballot fraud is the most frequent form of election fraud.
- In Arkansas, it is suspected that politicians pay ministers to tell their congregations to vote for them
- In 2003, the State Board documented 400 complaints against the Pulaski County Clerk for engaging in what was at least borderline fraud, e.g. certain people not receiving their absentee ballots. The case went to a grand jury but no indictment was brought.
- Transportation of ballot boxes is often insecure making it very easy for insiders to tamper with the ballots or stuff the ballot boxes. Priest has not actually witnessed this happen, but believes it may have.
- Intimidation at the poll sites in court houses. Many voters are afraid of the county judges or county employees and therefore will not vote. They justifiably believe

their ballots will be opened by these employees to see who they voted for, and if they voted against the county people, retribution might ensue.

- Undue challenges to minority language voters at the poll sites
- Paid registration collectors fill out phony names, but these individuals are caught before anyone is able to cast an ineligible ballot.

Suggested Reforms for Improvement:

- Nonpartisan election administration
- Increased prosecution of election crimes through greater resources to district attorneys. In addition, during election time, there should be an attorney in the DA's office who is designated to handle election prosecution.
- There should be greater centralization of the process, especially with respect to the statewide database. Arkansas has a "bottom up" system. This means the counties still control the list and there is insufficient information sharing. For example, if someone lives in one county but dies in another, the county in which the voter lived – and was registered to vote – will not be notified of the death.

Interview with Joe Sandler, Counsel to the DNC

February 24, 2006

Background

Sandler is an election attorney. He worked for the DNC in 1986, was in-house counsel from 1993-1998, and currently is outside counsel to the DNC and most state Democratic Parties. Sandler was part of the recount team in Florida in both 2002 and 2004. He recruited and trained attorneys in voting issues---starting in 2002 Sandler recruited in excess of 15, 000 attorneys in twenty-two states. He is now putting together a national lawyers council in each state.

2004-Administrative Incompetence v. Fraud

Sandler believes the 2004 election was a combination of administrative incompetence and fraud. Sandler stated there was a deliberate effort by the Republicans to disenfranchise voters across the country. This was accomplished by mailing out cards to registered voters and then moving to purge from the voters list those whose cards were returned. Sandler indicated that in New Mexico there was a deliberate attempt by Republicans to purge people registered by third parties. He stated that there were intentional efforts to disenfranchise voters by election officials like Ken Blackwell in Ohio.

The problems with machine distribution in 2004 were not deliberate. However, Sandler believes that a large problem exists in the states because there are no laws that spell out a formula to allocate so many voting machines per voter.

Sandler was asked how often names were intentionally purged from the voter lists. He responded that there will be a lot of names purged as a result of the creation of the voter lists under HAVA. However, Sandler stated most wrongful purging results from incompetence. Sandler also said there was not much intimidation at the polls because most such efforts are deterred and that the last systematic effort was in Philadelphia in 2003 where Republicans had official looking cars and people with badges and uniforms, etc.

Sandler stated that deliberate dissemination of misinformation was more incidental, with individuals misinforming and not a political party. Disinformation did occur in small Spanish speaking communities.

Republicans point to instances of voter registration fraud but Sandler believes it did not occur, except for once in a blue moon. Sandler did not believe non-citizen voting was a problem. He also does not believe that there is voter impersonation at the polls and that Republicans allege this as a way of disenfranchising voters through restrictive voter identification rules.

Fraud and Intimidation Trends

Sandler stated that over the years there has been a shift from organized efforts to intimidate minority voters through voter identification requirements, improper purging, failure to properly register voters, not allocating enough voting machines, failure to properly use the provisional ballot, etc., by voter officials as well as systematic efforts by Republicans to deregister voters.

At the federal level, Sandler said, the voting division has become so politicized that it is basically useless now on intimidation claims. At the local level, Sandler does not believe politics prevents or hinders prosecution for vote fraud.

Sandler's Recommendations

Moving the voter lists to the state level is a good idea where carefully done

Provisional ballots rules should follow the law and not be over-used

No voter ID

Partisanship should be taken out of election administration, perhaps by giving that responsibility by someone other than the Secretary of State. There should at least be conflict of interest rules

Enact laws that allow private citizens to bring suit under state law

All suggestions from the DNC Ohio Report:

1. The Democratic Party must continue its efforts to monitor election law reform in all fifty states, the District of Columbia and territories.
2. States should be encouraged to codify into law all required election practices, including requirements for the adequate training of official poll workers.
3. States should adopt uniform and clear published standards for the distribution of voting equipment and the assignment of official pollworkers among precincts, to ensure adequate and nondiscriminatory access. These standards should be based on set ratios of numbers of machines and pollworkers per number of voters expected to turn out, and should be made available for public comment before being adopting.
4. States should adopt legislation to make clear and uniform the rules on voter registration.
5. The Democratic Party should monitor the processing of voter registrations by local election authorities on an ongoing basis to ensure the timely processing of registrations and changes, including both newly registered voters and voters who move within a jurisdiction or the state, and the Party should ask state Attorneys General to take action where necessary to force the timely updating of voter lists.
6. States should be urged to implement statewide voter lists in accordance with the Help America Vote Act ("HAVA"), the election reform law enacted by Congress in 2002 following the Florida debacle.
7. State and local jurisdictions should adopt clear and uniform rules on the use of, and the counting of, provisional ballots, and distribute them for public comment well in advance of each election day.

8. The Democratic Party should monitor the purging and updating of registered voter lists by local officials, and the Party should challenge, and ask state Attorneys General to challenge, unlawful purges and other improper list maintenance practices.
9. States should not adopt requirements that voters show identification at the polls, beyond those already required by federal law (requiring that identification be shown only by first time voters who did not show identification when registering.)
10. State Attorneys General and local authorities should vigorously enforce, to the full extent permitted by state law, a voter's right to vote without showing identification.
11. Jurisdictions should be encouraged to use precinct-tabulated optical scan systems with a computer assisted device at each precinct, in preference to touchscreen ("direct recording equipment" or "DRE") machines.
12. Touchscreen (DRE) machines should not be used until a reliable voter verifiable audit feature can be uniformly incorporated into these systems. In the event of a recount, the paper or other auditable record should be considered the official record.
13. Remaining punchcard systems should be discontinued.
14. States should ask state Attorneys General to challenge unfair or discriminatory distribution of equipment and resources where necessary, and the Democratic Party should bring litigation as necessary.
15. Voting equipment vendors should be required to disclose their source code so that it can be examined by third parties. No voting machine should have wireless connections or be able to connect to the Internet.
16. Any equipment used by voters to vote or by officials to tabulate the votes should be used exclusively for that purpose. That is particularly important for tabulating/aggregating computers.
17. States should adopt "no excuse required" standards for absentee voting.

18. States should make it easier for college students to vote in the jurisdiction in which their school is located.
19. States should develop procedures to ensure that voting is facilitated, without compromising security or privacy, for all eligible voters living overseas.
20. States should make voter suppression a criminal offense at the state level, in all states.
21. States should improve the training of pollworkers.
22. States should expend significantly more resources in educating voters on where, when and how to vote.
23. Partisan officials who volunteer to work for a candidate should not oversee or administer any elections.

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Interview with John Ravitz, Executive Director, New York City Board of Elections
February 16, 2006

Process

If there is an allegation of fraud or intimidation, the commissioners can rule to act on it. For example, in 2004 there were allegations in Queens that people had registered to vote using the addresses of warehouses and stores. The Board sent out teams of investigators to look into this. The Board then developed a challenge list that was to be used at the polls if any of the suspect voters showed up to vote.

If the allegation rises to a criminal level, the Board will refer it to the county district attorney. If a poll worker or election official is involved, the Board may conduct an internal investigation. That individual would be interviewed, and if there is validity to the claim, the Board would take action.

Incidences of Fraud and Intimidation

Mr. Ravitz says there have been no complaints about voter intimidation since he has been at the Board. There have been instances of over-aggressive poll workers, but nothing threatening. Voter fraud has also generally not been a problem.

In 2004, the problem was monitors from the Department of Justice intimidating voters. They were not properly trained, and were doing things like going into the booth with voters. The Board had to contact their Department supervisors to put a stop to it.

Charges regarding "ballot security teams" have generally just been political posturing.

The problem of people entering false information on voter registration forms is a problem. However, sometimes a name people allege is false actually turns out to be the voter's real name. Moreover, these types of acts do not involve anyone actually casting a fraudulent ballot.

With respect to the issue of voters being registered in both New York and Florida, the Board now compares its list with that of Florida and other places to address the problem. This will be less of an issue with the use of statewide voter registration databases, as information becomes easier to share. Despite the number of people who were on the voter registration lists of both jurisdictions, there was no one from those lists who voted twice.

Most of the problems at the polls have to do with poll workers not doing what they are supposed to do, not any sort of malfeasance. This indicates that improved training is the most important measure we can take.

There have been instances in which poll workers ask voters for identification when they shouldn't. However, the poll workers seem to do it when they cannot understand the name when the voter tells it to them. The Board has tried to train them that no matter what, the poll worker cannot ask for identification in order to get the person's name.

Absentee ballot fraud has also not been a problem in New York City. This is likely because absentee ballots are counted last – eight days after election day. This is so that they can be checked thoroughly and verified. This is a practice other jurisdictions might consider.

New York City has not had a problem with ex-felons voting or with ex-felons not knowing their voting rights. The City has not had any problems in recent years with deceptive practices, such as flyers providing misinformation about voting procedures.

Recommendations

- Better poll worker training
- Thorough inspection of absentee ballots subsequent to the election

**Interview with Joe Rich, former Chief of the Voting Section,
US Department of Justice
February 7, 2006**

Background

Mr. Rich went to Yale undergraduate and received his law degree from the University of Michigan. He served as Chief of the Voting Section from 1999-2005. Prior to that he served in other leadership roles in the Civil Rights Division and litigated several civil rights cases.

Data Collection and Monitoring

The section developed a new database before the 2004 election to log complaint calls and what was done to follow up on them. They opened many investigations as a result of these complaints, including one on the long lines in Ohio (see DOJ letter on website, as well as critical commentary on the DOJ letter's analysis). DOJ found no Section 2 violation in Ohio. John Tanner should be able to give us this data. However, the database does not include complaints that were received by monitors and observers in the field.

All attorney observers in the field are required to submit reports after Election Day to the Department. These reports would give us a very good sense of the scope and type of problems that arose on that day and whether they were resolved on the spot or required further action.

The monitoring in 2004 was the biggest operation ever. Prior to 2000, only certain jurisdictions could be observed – a VRA covered jurisdiction that was certified or a jurisdiction that had been certified by a court, e.g. through a consent decree. Since that time, and especially in 2004, the Department has engaged in more informal “monitoring.” In those cases, monitors assigned to certain jurisdictions, as opposed to observers, can only watch in the polling place with permission from the jurisdiction. The Department picked locations based on whether they had been monitored in the past, there had been problems before, or there had been allegations in the past. Many problems that arose were resolved by monitors on the spot.

Processes for Cases not Resolved at the Polling Site

If the monitor or observer believes that a criminal act has taken place, he refers it to the Public Integrity Section (PIN). If it is an instance of racial intimidation, it is referred to the Civil Rights Criminal Division. However, very few such cases are prosecuted because they are very hard to prove. The statutes covering such crimes require actual violence or the threat of violence in order to make a case. As a result, most matters are referred to PIN because they operate under statutes that make these cases easier to prove. In general, there are not a high number of prosecutions for intimidation and suppression.

If the act is not criminal, it may be brought as a civil matter, but only if it violated the Voting Rights Act – in other words, only if there is a racial aspect to the case. Otherwise the only recourse is to refer it to PIN.

However, PIN tends not to focus on intimidation and suppression cases, but rather cases such as alleged noncitizen voting, etc. Public Integrity used to only go after systematic efforts to corrupt the system. Now they focus on scattered individuals, which is a questionable resource choice. Criminal prosecutors over the past 5 years have been given more resources and more leeway because of a shift in focus and policy toward noncitizens and double voting, etc.

There have been very few cases brought involving African American voters. There have been 7 Section 2 cases brought since 2001 – only one was brought on behalf of African American voters. That case was initiated under the Clinton administration. The others have included Latinos and discrimination against whites.

Types of Fraud and Intimidation Occurring

There is no evidence that polling place fraud is a problem. There is also no evidence that the NVRA has increased the opportunity for fraud. Moreover, regardless of NVRA's provisions, an election official can always look into a voter's registration if he or she believes that person should no longer be on the list. The Department is now suing Missouri because of its poor registration list.

The biggest problem is with absentee ballots. The photo ID movement is a vote suppression strategy. This type of suppression is a bigger problem than intimidation. There has been an increase in vote suppression over the last five years, but it has been indirect, often in the way that laws are interpreted and implemented. Unequal implementation of ID requirements at the polls based on race would be a VRA violation.

The most common type of intimidation occurring is open hostility by poll workers toward minorities. It is a judgment call whether this is a crime or not – Craig Donsanto of PIN decides if it rises to a criminal matter.

Election Day challenges at the polls could be a VRA violation but such a case has never been formally pursued. Such cases are often resolved on the spot. Development of a pre-election challenge list targeted at minorities would be a VRA violation but this also has never been pursued. These are choices of current enforcement policy.

Long lines due to unequal distribution of voting machines based on race, list purges based on race and refusal to offer a provisional ballot on the basis of race would also be VRA violations.

Recommendations

Congress should pass a new law that allows the Department to bring civil actions for suppression that is NOT race based, for example, deceptive practices or wholesale challenges to voters in jurisdictions that tend to vote heavily for one party.

Given the additional resources and latitude given to the enforcement of acts such as double voting and noncitizen voting, there should be an equal commitment to enforcement of acts of intimidation and suppression cases.

There should also be increased resources dedicated to expanded monitoring efforts. This might be the best use of resources since monitors and observers act as a deterrent to fraud and intimidation.

Interview with Kevin Kennedy, State Elections Director, State of Wisconsin

April 11, 2006

Background

Kennedy is a nonpartisan, appointed official. He has been in this position since 1983.

Complaints of fraud and intimidation do not usually come to Kennedy's office. Kennedy says that complainants usually take their allegations to the media first because they are trying to make a political point.

2004 Election Incidents of Fraud

The investigations into the 2004 election uncovered some cases of double voting and voting by felons who did not know they were not eligible to vote, but found no concerted effort to commit fraud. There have been a couple of guilty pleas as a result, although not a number in the double digits. The task force and news reports initially referred to 100 cases of double voting and 200 cases of felon voting, but there were not nearly that many prosecutions. Further investigation since the task force investigation uncovered that in some instances there were mis-marks by poll workers, fathers and sons mistaken for the same voter, and even a husband and wife marked as the same voter. The double votes that are believed to have occurred were a mixture of absentee and polling place votes. It is unclear how many of these cases were instances of voting in two different locations.

In discussing the case from 2000 in which a student claimed – falsely – that he had voted several times, Kennedy said that double voting can be done. The deterrent is that it's a felony, and that one person voting twice is not an effective way to influence an election. One would need to get a lot of people involved for it to work.

The task force set up to investigate the 2004 election found a small number of illegal votes but given the 7,000 alleged, it was a relatively small number. There was no pattern of fraud.

The one case Kennedy could recall of an organized effort to commit fraud was in the spring of 2003 or 2004. A community service agency had voters request that absentee ballots be sent to the agency instead of to the voters and some of those ballots were signed without the voters' knowledge. One person was convicted, the leader of the enterprise.

In Milwaukee, the main contention was that there were more ballots than voters. However, it was found that the 7,000 vote disparity was tied to poll worker error. The task force found that there was no concerted effort involved. Kennedy explained that there are many ways a ballot can get into a machine without a voter getting a number. These include a poll worker forgetting to give the voter one; someone does Election Day registration and fills out a registration form but does not get a number because the

transaction all takes place at one table; and in Milwaukee, 20,000 voters who registered were not put on the list in time and as a short term solution the department sent the original registration forms to the polling places to be used instead of the list to provide proof of registration. This added another element of confusion that might have led to someone not getting a voter number.

The Republican Party used this original list and contracted with a private vendor to do a comparison with the U.S. postal list. They found initially that there were 5,000 bad addresses, and then later said there were 35,000 illegitimate addresses. When the party filed a complaint, the department told them they could force the voters on their list to cast a challenge ballot. On Election Day, the party used the list but found no actually voting from those addresses. Kennedy suspects that the private vendor made significant errors when doing the comparison.

In terms of noncitizen voting, Kennedy said that there is a Russian community in Milwaukee that the Republican Party singles out every year but it doesn't go very far. Kennedy has not seen much in the way of allegations of noncitizen voting.

However, when applying for a drivers license, a noncitizen could register to vote. There is no process for checking citizenship at this point, and the statewide registration database will not address this. Kennedy is not aware of any cases of noncitizen voting as a result, but it might have happened.

Kennedy said that the biggest concern seemed to be suspicions raised when groups of people are brought into the polling site from group homes, usually homes for the disabled. There are allegations that these voters are being told how to vote.

Incidents of Voter Intimidation

In 2004, there was a lot of hype about challenges, but in Wisconsin, a challenger must articulate a basis under oath. This acts as a deterrent, but at the same time it creates the potential that someone might challenge everyone and create long lines, keeping people from voting. In 2004, the Republican Party could use its list of suspect addresses as a legitimate basis for challenges, so there is the potential for abuse. It is also hard to train poll workers on that process. In 2004, there were isolated cases of problems with challengers.

In 2002, a flyer was circulated only in Milwaukee claiming that you had vote by noon. This was taken as an intimidation tactic by the Democrats.

Reforms

Wisconsin has had difficulty with its database because 1) they have had a hard time getting a good product out of the vendor and 2) until now there was no registration record for one-quarter of the voters. Any jurisdiction with fewer than 5000 voters was not required to have a registration list.

In any case, once these performance issues are worked out, Kennedy does believe the statewide voter registration database will be very valuable. In particular, it will mean that people who move will not be on more than one list anymore. It should also address the double voting issue by identifying who is doing it, catching people who do it, and identifying where it could occur.

Recommendations

Better trained poll workers

Ensure good security procedures for the tabulation process and more transparency in the vote counting process

Conduct post-election audits

Interview with Lori Minnite, Barnard College

February 22, 2006

Background

Ms. Minnite is an assistant professor of political science at Barnard College. She has done substantial research on voter fraud and wrote the report "Securing the Vote." Ms. Minnite also did work related to an election lawsuit. The main question that she was asked to address in the lawsuit was---did election-day registration increase the possibility of fraud?

Securing the Vote

In Securing the Vote, Ms. Minnite found very little evidence of voter fraud because the historical conditions giving rise to fraud have weakened over the past twenty years. She stated that for fraud to take root a conspiracy was needed with a strong local political party and a complicit voter administration system. Since parties have weakened and there has been much improvement in the administration of elections and voting technology, the conditions no longer exist for large scale incidents of polling place fraud.

Ms. Minnite concentrates on fraud committed by voters not fraud committed by voting officials. She has looked at this issue on the national level and also concentrated on analyzing certain specific states. Ms. Minnite stressed that it is important to keep clear who the perpetrators of the fraud are and where the fraud occurs because that effects what the remedy should be. Often, voters are punished for fraud committed by voting officials.

Other Fraud Issues

Ms. Minnite found no evidence that NVRA was leading to more voter fraud. She supports non-partisan election administration. Ms. Minnite has found evidence that there is absentee ballot fraud. She can't establish that there is a certain amount of absentee ballot fraud or that it is the major kind of voter fraud.

Recommendations

Assure there are accurate voter records and centralize voter databases

Reduce partisanship in electoral administration.

Interview with John Tanner, Director, Civil Rights Division, U.S. Department of Justice

February 24, 2006

Note: Mr. Tanner's reluctance to share data, information and his perspective on solving the problems presented an obstacle to conducting the type of interview that would help inform this project as much as we would have hoped. Mr. Tanner would not give us any information about or data from the section's election complaint in-take phone logs; data or even general information from the Interactive Case Management (ICM) system-its formal process for tracking and managing work activities in pursuing complaints and potential violations of the voting laws; and would give us only a selected few samples of attorney-observer reports, reports that every Voting Section attorney who is observing elections at poll sites on Election Day is required to submit. He would not discuss in any manner any current investigations or cases the section is involved in. He also did not believe it was his position to offer us recommendations as to how his office, elections, or the voting process might be improved.

Authority and Process

The Voting Section, in contrast to the Public Integrity section as Craig Donsanto described it, typically looks only at systemic problems, not problems caused by individuals. Indeed, the section never goes after individuals because it does not have the statutory authority to do so. In situations in which individuals are causing problems at the polls and interfering with voting rights, the section calls the local election officials to resolve it.

Federal voting laws only apply to state action, so the section only sues local governments – it does not have any enforcement power over individuals. Most often, the section enters into consent agreements with governments that focus on poll worker training, takes steps to restructure how polls are run, and deals with problems on Election Day on the spot. Doing it this way has been most effective – for example, while the section used to have the most observers in the South, systematic changes forced upon those jurisdictions have made it so now the section does not get complaints from the South.

The section can get involved even where there is no federal candidate on the ballot if there is a racial issue under the 14th and 15th Amendments.

When the section receives a complaint, attorneys first determine whether it is a matter of individuals or systemic. When deciding what to do with the complaint, the section errs on the side of referring it criminally because they do not want civil litigation to complicate a possible criminal case.

When a complaint comes in, the attorneys ask questions to see if there are even problems there that the complainant is not aware are violations of the law. For example, in the Boston case, the attorney did not just look at Spanish language cases under section 203, but also brought a Section 2 case for violations regarding Chinese and Vietnamese voters.

When looking into a case, the attorneys look for specificity, witnesses and supporting evidence.

Often, lawsuits bring voluntary compliance.

Voter Intimidation

Many instances of what some people refer to as voter intimidation are more unclear now. For example, photographing voters at the polls has been called intimidating, but now everyone is at the polls with a camera. It is hard to know when something is intimidation and it is difficult to show that it was an act of intimidation.

The fact that both parties are engaging in these tactics now makes it more complicated. It makes it difficult to point the finger at any one side.

The inappropriate use of challengers on the basis of race would be a violation of the law. Mr. Tanner was unaware that such allegations were made in Ohio in 2004. He said there had never been an investigation into the abusive use of challengers.

Mr. Tanner said a lot of the challenges are legitimate because you have a lot of voter registration fraud as a result of groups paying people to register voters by the form. They turn in bogus registration forms. Then the parties examine the registration forms and challenge them because 200 of them, for example, have addresses of a vacant lot.

However, Mr. Tanner said the Department was able to informally intervene in challenger situations in Florida, Atkinson County, Georgia and in Alabama, as was referenced in a February 23 Op-Ed in USA Today. Mr. Tanner reiterated the section takes racial targeting very seriously.

Refusal to provide provisional ballots would be a violation of the law that the section would investigate.

Deceptive practices are committed by individuals and would be a matter for the Public Integrity Section. Local government would have to be involved for the voting section to become involved.

Unequal implementation of ID rules, or asking minority voters only for ID would be something the section would go after. Mr. Tanner was unaware of allegations of this in 2004. He said this is usually a problem where you have language minorities and the poll workers cannot understand the voters when they say their names. The section has never formally investigated or solely focused a case based on abuse of ID provisions. However, implementation of ID rules was part of the Section 2 case in San Diego. Mr. Tanner reiterated that the section is doing more than ever before.

When asked about the section's references to incidents of vote fraud in the documents related to the new state photo identification requirements, Mr. Tanner said the section only looks at retrogression, not at the wisdom of what a legislature does. In Georgia, for

example, everyone statistically has identification, and more blacks have ID than whites. With respect to the letter to Senator Kit Bond regarding voter ID, the section did refer to the perception of concern about dead voters because of reporting by the Atlanta Journal-Constitution. It is understandable that when you have thousands of bogus registrations that there would be concerns about polling place fraud. Very close elections make this even more of an understandable concern. Putting control of registration lists in the hands of the states will be helpful because at this higher level of government you find a higher level of professionalism.

It is hard to know how much vote suppression and intimidation is taking place because it depends on one's definition of the terms – they are used very loosely by some people. However, the enforcement of federal law over the years has made an astounding difference so that the level of discrimination has plummeted. Registration of minorities has soared, as can be seen on the section's website. Mr. Tanner was unsure if the same was true with respect to turnout, but the gap is less. That information is not on the section's website.

The section is not filing as many Section 2 cases as compared to Section 203 cases because many of the jurisdictions sued under Section 2 in the past do not have issues anymore. Mr. Tanner said that race based problems are rare now.

NVRA has been effective in opening up the registration process. In terms of enforcement, Mr. Tanner said they do what they can when they have credible allegations. There is a big gap between complaints and what can be substantiated. Mr. Tanner stated that given the high quality of the attorneys now in the section, if they do not investigate it or bring action, that act complained of did not happen.

Recommendations

Mr. Tanner did not feel it was appropriate to make recommendations.

Interview with Pat Rogers, private attorney

March 3, 2006

Background

In addition to his legal practice with *Modrall, Sperling, Roehl, Harris & Sisk*, Rogers also does some state-level lobbying for Verizon Wireless, GM, Dumont and other companies. His experience in election law goes back to 1988, where his first elections case was a defense against Bill Richardson, who had sued to get another candidate tossed off a ballot because of petition fraud. Since 1988, he has been involved in election cases at least once every two years.

2004 Litigation

In a case that ended before the New Mexico Supreme Court, Rogers represented the Green Party and other plaintiffs against the New Mexico Secretary of State for sending a directive telling local boards not to require ID for first time voters registering by mail. He argued that this watered-down ID check conflicted with what seemed fairly clear statutory requirements for first time voters. In 2004 these requirements were especially important due to the large presence of 3rd party organizations registering voters such as a 527 funded by Governor Richardson, ACORN, and others.

Plaintiffs were seeking a temporary restraining order requiring Secretary of State to follow the law. Yet the Supreme Court ultimately decided that, whether the directive was right or wrong, it was too late to require ID lest Bush v. Gore issues be raised.

Today, the issue is moot as the state legislature has changed the law, and the Secretary of State will no longer be in office. It seems unlikely they will send any policy directives to county clerks lest they violate due process/public notice.

Major issues in NM w/ regard to vote fraud

Registration fraud seems to be the major issue, and while the legislature has taken some steps, Rogers is skeptical of the effect they will have, considering the history of unequal application of election laws. He also believes there are holes in the 3rd party registration requirement deadlines.

Rogers views a national law requiring ID as the best solution to registration problems. Rather than imposing a burden he contends it will enhance public confidence in the simplest way possible.

Registration Fraud in 2004 election

It came to light that ACORN had registered a 13 year old. The father was an APD officer and received the confirmation, but it was sent to the next door address, a vacant house.

They traced this to an ACORN employee and it was established that this employee had been registering others under 18.

Two weeks later, in a crack cocaine bust of Cuban nationals, one of those raided said his job was registering voters for ACORN, and the police found signatures in his possession for fictitious persons.

In a suspicious break-in at an entity that advertised itself as nonpartisan, only GOP registrations were stolen.

In another instance, a college student was allegedly fired for registering too many Republicans.

Rogers said he believed these workers were paid by the registration rather than hourly.

There have been no prosecution or convictions related to these incidents. In fact, there have been no prosecutions for election fraud in New Mexico in recent history. However, Rogers is skeptical that much action can be expected considering the positions of Attorney General, Governor, and Secretary of State are all held by Democrats. Nor has there been any interest from the U.S. attorney—Rogers heard that U.S. attorneys were given instruction to hold off until after the election in 2004 because it would seem too political.

As part of the case against the Secretary of State regarding the identification requirement, the parties also sued ACORN. At a hearing, the head of ACORN, and others aligned with the Democratic Party called as witnesses, took the 5th on the stand as to their registration practices.

Other incidents

Very recently, there have been reports of vote buying in the town of Espanola. Originally reported by the *Rio Grande Sun*, a resident of a low-income housing project is quoted as saying it has been going on for 10-12 years. The Albuquerque Journal is now reporting this as well. So far the investigation has been extremely limited.

In 1996, there were some prosecutions in Espanola, where a state district judge found registration fraud.

In 1991, the chair of Democratic Party of Bertolino County was convicted on fraud. Yet she was pardoned by Clinton on same day as Marc Rich.

Intimidation/Suppression

Rogers believes the most notable example of intimidation in the 2004 election was the discovery of a DNC Handbook from Colorado advising Democratic operatives to widely report intimidation regardless of confirmation in order to gain media attention.

In-person polling place fraud

There have only been isolated instances of people reporting that someone had voted in their name, and Rogers doesn't believe there is any large scale conspiracy. Yet he contends that perspective misses the larger point of voter confidence. Although there has been a large public outcry for voter ID in New Mexico, it has been deflected and avoided by Democrats.

In 2004, there were more Democratic lawyers at the polls than there are lawyers in New Mexico. Rogers believes these lawyers had a positive impact because they deterred people from committing bad acts.

Counting Procedures

The Secretary of State has also taken the position that canvassing of the vote should be done in private. In NM, they have a 'county canvas' where they review and certify, after which all materials—machine tapes, etc.—are centralized with the Secretary of State who does a final canvass for final certification. Conducting this in private is a serious issue, especially considering the margin in the 2000 presidential vote in New Mexico was only 366 votes. They wouldn't be changing machine numbers, but paper numbers are vulnerable.

On a related note, NM has adopted state procedures that will ensure their reports are slower and very late, considering the 2000 late discovery of ballots. In a close race, potential for fraud and mischief goes up astronomically in the period between poll closing and reporting. Rogers believes these changes are going to cause national embarrassment in the future.

Rogers attributes other harmful effects to what he terms the Secretary of State's incompetence and inability to discern a nonpartisan application of the law. In the 2004 election, no standards were issued for counting provisional ballots. Furthermore, the Secretary of State spent over \$1 million of HAVA money for 'voter education' in blatant self-promotional ads.

Recommendations

Rogers believes it would be unfeasible to have nonpartisan election administration and favors transparency instead. To make sure people have confidence in the election, there must be transparency in the whole process. Then you don't have the 1960 vote coming down to Illinois, or the Espanola ballot or Dona Anna County (ballots found there in the 2000 election). HAVA funds should also be restricted when you have an incompetent, partisan Secretary of State.

There should be national standards for reporting voting results so there is less opportunity for fraud in a close race. Although he is not generally an advocate of national laws, he

does agree there should be more national uniformity into how votes are counted and recorded.

Interview with Rebecca Vigil-Giron, Secretary of State, New Mexico

March 24, 2006

Background

Vigil-Giron has been Secretary of State for twelve years and was the President of the National Association of Secretaries of State in 2004. Complaints of election fraud and intimidation are filed with the SOS office. She then decides whether to refer it to the local district attorney or the attorney general. Because the complaints are few and far between, the office does not keep a log of complaints; however, they do have all of the written complaints on file in the office.

Incidents of Fraud and Intimidation

During the 2004 election, there were a couple of complaints of polling place observers telling people outside the polling place who had just voted, and then the people outside were following the voters to their cars and videotaping them. This happened in areas that are mostly second and third generation Latinos. The Secretary sent out the sheriff in one instance of this. The perpetrators moved to a different polling place. This was the only incident of fraud or intimidation Vigil-Giron was aware of in New Mexico.

There have not been many problems on Native reservations because, unlike in many other states, in New Mexico the polling place is on the reservation and is run by local Native Americans. Vigil-Giron said that it does not make sense to have non-Natives running those polls because it is necessary to have people there who can translate. Because most of the languages are unwritten, the HAVA requirement of accessibility through an audio device will be very helpful in this regard. Vigil-Giron said she was surprised to learn while testifying at the Voting Rights Act commission hearings of the lack of sensitivity to these issues and the common failure to provide assistance in language minority areas.

In 2004 the U.S. Attorney, a Republican, suddenly announced he was launching an investigation into voter fraud without consulting the Secretary of State's office. After all of that, there was maybe one prosecution. Even the allegations involving third party groups and voter registration are often misleading. People doing voter registration drives encourage voters to register if they are unsure if they are already registered, and the voter does not even realize that his or her name will then appear on the voter list twice. The bigger problem is where registrations do not get forwarded to election administrators and the voter does not end up on the voting list on Election Day. This is voter intimidation in itself, Vigil-Giron believes. It is very discouraging for that voter and she wonders whether he or she will try again.

Under the bill passed in 2004, third parties are required to turn around voter registration forms very quickly between the time they get them and when they must be returned. If

they fail to return them within 48 hours of getting them, they are penalized. This, Vigil-Giron believes, is unfair. She has tried to get the Legislature to look at this issue again. Regarding allegations of vote buying in Espanola, Vigil-Giron said that the Attorney General is investigating. The problem in that area of New Mexico is that they are still using rural routes, so they have not been able to properly district. There has, as a result, been manipulation of where people vote. Now they seem to have pushed the envelope too far on this. The investigation is not just about vote buying, however. There have also been allegations of voters being denied translators as well as assistance at the polls.

Vigil-Giron believes there was voter suppression in Ohio in 2004. County officials knew thirty days out how many people had registered to vote, they knew how many voters there would be. Administrators are supposed to use a formula for allocation of voting machines based on registered voters. Administrators in Ohio ignored this. As a result, people were turned away at the polls or left because of the huge lines. This, she believes, was a case of intentional vote suppression.

A few years ago, Vigil-Giron heard that there may have been people voting in New Mexico and a bordering town in Colorado. She exchanged information with Colorado administrators and it turned out that there were no cases of double voting.

Recommendations

Vigil-Giron believes that linking voter registration databases across states may be a way to see if people who are registered twice are in fact voting twice.

The key to improving the process is better trained poll workers, who are certified, and know what to look for on Election Day. These poll workers should then work with law enforcement to ensure there are no transgressions.

There should be stronger teeth in the voter fraud laws. For example, it should be more than a fourth degree felony, as is currently the case.

Interview with Nina Perales, Counsel, Mexican American Legal Defense and Education Fund

March 7, 2006

Background

Ms. Perales is an attorney with the Mexican American Legal Defense Fund (MALDEF). MALDEF's mission is to foster sound public policies, laws and programs to safeguard the civil rights of the 40 million Latinos living in the United States and to empower the Latino community to fully participate in our society. One of the areas MALDEF works in is electoral issues, predominately centered on the Voting Rights Act. Ms. Perales did not seem to have a sense of the overall electoral issues in her working region (the southwest) effecting Hispanic voters and did not seem to want to offer her individual experiences and work activities as necessarily a perfect reflection of the challenges Hispanic voters face.

Largest Election Problems Since 2000

Santa Anna County, New Mexico-2004-intimidated voters by video taping them.

San Antonio-One African American voter subjected to a racial slur.

San Antonio-Relocated polling places at the last minute without Section 5 pre-clearance.

San Antonio-Closed polls while voters were still in line.

San Antonio-2003-only left open early voting polls in predominantly white districts.

San Antonio-2005-racially contested mayoral run-off election switched from touch screen voting to paper ballots.

Voter Fraud and Intimidation

In Texas, the counties are refusing to open their records with respect to Section 203 compliance (bilingual voting assistance), and those that did respond to MALDEF's request submitted incomplete information. Ms. Perales believes this in itself is a form of voter intimidation.

Ms. Perales said it is hard to say if the obstacles minorities confront in voting are a result of intentional acts or not because the county commission is totally incompetent. There have continuously been problems with too few ballots, causing long lines, especially in places that had historically lower turnout. There is no formula in Texas for allocating ballots – each county makes these determinations.

When there is not enough language assistance at the polls, forcing a non-English speaker to rely on a family member to vote, that can suppress voter turnout.

Ms. Perales is not aware of deceptive practices or dirty tricks targeted at the Latino community.

There have been no allegations of illegal noncitizen voting in Texas. Indeed, the sponsor of a bill that would require proof of citizenship to vote could not provide any documentation of noncitizen voting in support of the bill. The bill was defeated in part because of the racist comments of the sponsor. In Arizona, such a measure was passed. Ms. Perales was only aware of one case of noncitizen voting in Arizona, involving a man of limited mental capacity who said he was told he was allowed to register and vote. Ms. Perales believes proof of citizenship requirements discriminate against Latinos.

Recommendations

Ms. Perales feels the laws are adequate, but that her organization does not have enough staff to do the monitoring necessary. This could be done by the federal government. However, even though the Department of Justice is focusing on Section 203 cases now, they have not even begun to scratch the surface. Moreover, the choices DOJ has made with respect to where they have brought claims do not seem to be based on any systematic analysis of where the biggest problems are. This may be because the administration is so ideological and partisan.

Ms. Perales does not believe making election administration nonpartisan would have a big impact. In Texas, administrators are appointed in a nonpartisan manner, but they still do not always have a nonpartisan approach. Each administrator tends to promote his or her personal view regardless of party.

Interview with Steve Ansolobhere and Chandler Davidson
February 17, 2006

Methodology suggestions

In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources: the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that asks whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. Mr. Ansolobhere recommended Jonathan Krosnick, Doug Rivers, and Paul Sniderman at Stanford; Donald Kinder and Arthur Lupia at Michigan; Edward Carmines at Indiana; and Phil Tetlock at Berkeley. In the alternative, Mr. Ansolobhere suggested that the EAC might work with the Census Bureau to have them ask different, additional questions in their Voter Population Surveys.

Mr. Chandler further suggested it is important to talk to private election lawyers, such as Randall Wood, who represented Ciro Rodriguez in his congressional election in Texas. Mr. Ansolobhere also recommended looking at experiments conducted by the British Election Commission.

Incidents of Fraud and Intimidation

Mr. Davidson's study for the Lawyers Committee for Civil Rights on the Voting Rights Act documented evidence of widespread difficulty in the voting process. However, he did not attempt to quantify whether this was due to intentional, malevolent acts. In his 2005 report on ballot security programs, he found that there were many allegations of fraud made, but not very many prosecutions or convictions. He saw many cases that did go to trial and the prosecutors lost on the merits.

In terms of voter intimidation and vote suppression, Mr. Davidson said he believes the following types of activities do occur: videotaping of voters' license plates; poll workers asking intimidating questions; groups of officious-looking poll watchers at the poll sites who seem to be some sort of authority looking for wrongdoing; spreading of false information, such as phone calls, flyers, and radio ads that intentionally mislead as to voting procedures.

Mr. Ansolobhere believes the biggest problem is absentee ballot fraud. However, many of these cases involve people who do not realize what they are doing is illegal, for example, telling someone else how to vote. Sometimes there is real illegality occurring however. For example, vote selling involving absentee ballots, the filling out of absentee ballots en masse, people at nursing homes filling out the ballots of residents, and there are stories about union leaders getting members to vote a certain way by absentee ballot. This

problem will only get bigger as more states liberalize their absentee ballot rules. Mr. Chandler agreed that absentee ballot fraud was a major problem.

Recommendations

Go back to “for cause” absentee ballot rules, because it is truly impossible to ever ensure the security of a mail ballot. Even in Oregon, there was a study showing fraud in their vote by mail system.

False information campaigns should be combated with greater voter education. Los Angeles County’s voter education program should be used as a model.

Interview with Tracy Campbell, author

March 3, 2006

Background

Campbell's first book on election fraud looked at Ed Pritchard, a New Deal figure who went to jail for stuffing ballot boxes. While his initial goal in writing that book was to find out why Pritchard had engaged in vote stealing, his growing understanding of a pervasive culture of electoral corruption led him to consider instead how it was that Pritchard was ever caught. In 1998, he started working on a book regarding fraud in Kentucky, which quickly became a national study. He hoped to convey the 'real politics' which he feels readers, not to mention academics, have little sense about. While less blatant than in previous eras, fraud certainly still occurs, and he mentions some examples in his book. The major trend of the past 60-70 years has been that these tactics have grown more subtle.

While he hasn't conducted any scientific study of the current state of fraud, his sense as a historian is that it seems naive, after generations of watching the same patterns and practices influence elections, to view suspect election results today as merely attributable to simple error.

Vote-buying and absentee fraud

Campbell sees fraud by absentee ballot and vote buying as the greatest threats to fair elections today. He says vote fraud is like real estate: location, location, location—the closer you can keep the ballots to the courthouse the better. Absentee ballots create a much easier target for vote brokers who can manage voting away from the polling place, or even mark a ballot directly, in exchange for, say, \$50—or even more if an individual can bring their entire family. He has noted some small counties where absentee ballots outnumber in-person ballots.

However, few people engaged in this activity would call it 'purchasing' a vote. Instead, it is candidate Jones' way of 'thanking' you for a vote you would have cast in any event. The issue is what happens if candidate Smith offers you more. Likewise, the politicians who engage in vote fraud don't see it as a threat to the republic but rather as a game they have to play in order to get elected.

Regional patterns

Campbell suggests such practices are more prevalent in the South than the Northern states, and even more so compared to the West. The South has long been characterized as particularly dangerous in intimidation and suppression practices—throughout history, one can find routine stories of deaths at the polls each year. While he maintains that fraud seems less likely in the Western states, he sees the explosion of mail in and absentee ballots there as asking for trouble.

Poll site closings as a means to suppress votes

Campbell points to a long historical record of moving poll sites in order to suppress votes. Polling places in the 1800s were frequently set-up on rail cars and moved further down the line to suppress black votes.

He would include door-to-door canvassing practices here, as well as voting in homes, which was in use in Kentucky until only a few years ago. All of these practices have been justified as making polling places 'more accessible' while their real purpose has been to suppress votes.

Purge lists

Purge lists are, of course, needed in theory, yet Campbell believes the authority to mark names off the voter rolls presents extensive opportunity for abuse. For this reason, purging must be done in a manner that uses the best databases, and looks at only the most relevant information. When voters discover their names aren't on the list when they go to vote, for example, because they are "dead," it has a considerable demoralizing effect. Wrongful purging takes place both because of incompetence and as a tool to intentionally disenfranchise.

Campbell believes transparency is the real issue here. An hour after the polls close, we tend to just throw up our hands and look the other way, denying voters the chance to see that discrepancies are being rectified. He believes the cost in not immediately knowing election outcomes is a small price to pay for getting results right and showing the public a transparent process.

Deceptive practices

Today's deceptive practices have are solidly rooted in Reconstruction-era practices—i.e. phony ballots, the Texas 'elimination' ballot. The ability to confuse voters is a powerful tool for those looking to sway elections.

Language minorities

Campbell argues there is a fine line between offering help to non-English speakers and using that help against them. A related issue, particularly in the South, is taking advantage of the illiterate.

Current intimidation

Another tactic Campbell considers an issue today is polling place layout: the further vote suppressers can keep people away from the polls, the better. Practices such as photographing people leaving a polling place may also tie into vote-buying, where photos are used to intimidate and validate purchased votes. A good way to combat such practices is by keeping electioneering as far from the polls as possible.

Recommendations

Specific voting administration recommendations Campbell advocates would include reducing the use of absentee ballots and improving the protective zone around polling places.

Campbell would also like to see enforcement against fraud stepped up and stiffer penalties enacted, as current penalties make the risk of committing fraud relatively low. He compares the risk in election fraud similar to steroid use in professional sports—the potential value of the outcome is far higher than the risk of being caught or penalized for the infraction, so it is hard to prevent people from doing it. People need to believe they will pay a price for engaging in fraud or intimidation. Moreover, we need to have the will to kick people out of office if necessary.

He is skeptical of the feasibility of nonpartisan election administration, as he believes it would be difficult to find people who care about politics yet won't lean one way or the other—such an attempt would be unlikely to get very far before accusations of partisanship emerged. He considers the judiciary the only legitimate check on election fraud.

Interview with Sarah Bell Johnson Interview

April 19, 2006

Procedures for Handling Fraud

Fraud complaints are directed first to the state Board of Elections. Unlike boards in other states, Kentucky's has no investigative powers. Instead, they work closely with both the Attorney General and the U.S. Attorney. Especially since the current administration took office, they have found the U.S. Attorney an excellent partner in pursuing fraud cases, and have seen many prosecutions in the last six years. She believes that there has been no increase in the incidence of fraud, but rather the increase in prosecutions is related to increased scrutiny and more resources.

Major Types of Fraud and Intimidation

Johnson says that vote buying and voter intimidation go hand in hand in Kentucky. While historically fraud activity focused on election day, in the last 20 years it has moved into absentee voting. In part, this is because new voting machines aren't easy to manipulate in the way that paper ballots were open to manipulation in the past, especially in distant rural counties. For this reason, she is troubled by the proliferation of states with early voting, but notes that there is a difference between absentee ballot and early voting on machines, which is far more difficult to manipulate.

Among the cases of absentee ballot fraud they have seen, common practice involves a group of candidates conspiring together to elect their specific slate. Nursing homes are an especially frequent target. Elderly residents request absentee ballots, and then workers show up and 'help' them vote their ballots. Though there have been some cases in the Eastern district of election day fraud, most have been absentee.

Johnson argues that it is hard to distinguish between intimidation and vote buying. They have also seen instances where civic groups and church groups intimidate members to vote in a specific manner, not for reward, but under threat of being ostracized or even telling them they will go to hell.

While she is aware of allegations of intimidation by the parties regarding minority precincts in Louisville, the board hasn't received calls about it and there haven't been any prosecutions.

Challengers

Challengers are permitted at the polls in Kentucky. Each party is allowed two per location, and they must file proper paperwork. There is a set list of defined reasons for which they can challenge a voter, such as residency, and the challengers must also fill out paperwork to conduct a challenge.

As for allegations of challengers engaging in intimidation in minority districts, Johnson notes that challengers did indeed register in Jefferson County, and filed the proper paperwork, although they ultimately did not show up on election day.

She finds that relatively few challengers end up being officially registered, and that the practice has grown less common in recent years. This is due more to a change of fashion than anything. And after all, those wishing to affect election outcomes have little need for challengers in the precinct when they can target absentee voting instead.

In the event that intimidation is taking place, Kentucky has provisions to remove disruptive challengers, but this hasn't been used to her knowledge.

Prosecutions

Election fraud prosecutions in Kentucky have only involved vote buying. This may be because that it is easier to investigate, by virtue of a cash and paper trail which investigators can follow. It is difficult to quantify any average numbers about the practice from this, due in part to the five year statute of limitations on vote buying charges. However, she does not believe that vote-buying is pervasive across the state, but rather confined to certain pockets.

Vote-hauling Legislation

Vote hauling is a common form of vote buying by another name. Individuals are legally paid to drive others to the polls, and then divide that cash in order to purchase votes. Prosecutions have confirmed that vote hauling is used for this purpose. While the Secretary of State has been committed to legislation which would ban the practice, it has failed to pass in the past two sessions.

Paying Voter Registration Workers Legislation

A law forbidding people to pay workers by the voter registration card or for obtaining cards with registrations for a specific party was passed this session. Individuals working as part of a registration campaign may still be paid by hour. Kentucky's experience in the last presidential election illustrates the problems arising from paying individuals by the card. That contest included a constitutional amendment to ban gay marriage on the ballot, which naturally attracted the attention of many national groups. One group paying people by the card resulted in the registrar being inundated with cards, including many duplicates in the same bundle, variants on names, and variants on addresses. As this practice threatens to overwhelm the voter registration process, Kentucky views it as constituting malicious fraud.

Deceptive practices

Other than general reports in the news, Johnson hasn't received any separate confirmation or reports of deceptive practices, i.e., false and misleading information being distributed to confuse voters.

Effect of Kentucky's Database

Johnson believes Kentucky's widely praised voter registration database is a key reason why the state doesn't have as much fraud as it might, especially the types alleged elsewhere like double and felon voting. While no database is going to be perfect, the connections with other state databases such as the DMV and vital statistics have been invaluable in allowing them to aggressively purge dead weight and create a cleaner list. When parties use their database list they are notably more successful. Johnson wonders how other states are able to conduct elections without a similar system.

Some factors have made especially important to their success. When the database was instituted in 1973, they were able to make everyone in the state re-register and thus start with a clean database. However, it is unlikely any state could get away with this today.

She is also a big supporter of a full Social Security number standard, as practiced in Kentucky. The full Social Security, which is compared to date of birth and letters in the first and last name, automatically makes matching far more accurate. The huge benefits Kentucky has reaped make Johnson skeptical of privacy concerns arguing for an abbreviated Social Security number. Individuals are willing to submit their Social Security number for many lesser purposes, so why not voting? And in any event, they don't require a Social Security number to register (unlike others such as Georgia). Less than a percent of voters in Kentucky are registered under unique identifiers, which the Board of Elections then works to fill in the number through cross referencing with the DMV.

Recommendations

Johnson believes the backbone of effective elections administration must be standardized procedures, strong record keeping, and detailed statutes. In Kentucky, all counties use the same database and the same pre election day forms. Rather than seeing that as oppressive, county officials report that the uniformity makes their jobs easier.

This philosophy extends to the provisional ballot question. While they did not have a standard in place like HAVA's at the time of enactment, they worked quickly to put a uniform standard in place.

They have also modified forms and procedures based on feedback from prosecutors. Johnson believes a key to enforcing voting laws is working with investigators and prosecutors and ensuring that they have the information they need to mount cases.

She also believes public education is important, and that the media could do more to provide information about what is legal and what is illegal. Kentucky tries to fulfill this role by information in polling places, press releases, and high profile press conferences before elections. She notes that they deliberately use language focusing on fraud *and* intimidation.

Johnson is somewhat pessimistic about reducing absentee ballot fraud. Absentee ballots do have a useful function for the military and others who cannot get to the polling place, and motivated

individuals will always find a way to abuse the system if possible. At a minimum, however, she recommends that absentee ballots should require an excuse. She believes this has helped reduce abuse in Kentucky, and is wary of no-excuse practices in other states.

Interview with Bill Groth, Attorney for the Plaintiffs in Indiana Identification Litigation

February 22, 2006

Fraud in Indiana

Indiana has never charged or prosecuted anyone for polling place fraud. Nor has any empirical evidence of *voter impersonation* fraud or dead voter fraud been presented. In addition, there is no record of any credible complaint about *voter impersonation* fraud in Indiana. State legislators signed an affidavit that said there had never been impostor voting in Indiana. At the same time, the Indiana Supreme Court has not necessarily required evidence of voter fraud before *approving* legislative attempts to address fraud.

The state attorney general has conceded that there is no concrete fraud in Indiana, but has instead referred to instances of fraud in other states. Groth filed a detailed motion to strike evidence such as John Fund's book relating to other states, arguing that none of that evidence was presented to the legislature and that it should have been in the form of sworn affidavits, so that it would have some indicia of verifiability.

Photo ID law

By imposing restrictive ID measures, Groth contends you will discourage 1,000 times more legitimate voters than illegitimate voters you might protect against. He feels the implementation of a REAL ID requirement is an inadequate justification for the law, as it will not affect the upcoming 2006 election where thousands of registered voters will be left without proper ID. In addition, he questions whether REAL ID will be implemented as planned in 2008 considering the backlash against the law so far. He also feels ID laws are unconstitutional because of inconsistent application.

Statewide database as remedy

Groth believes many problems will be addressed by the statewide database required under HAVA. To the extent that the rolls in Indiana are bloated, it is because state officials have not complied with NVRA list maintenance requirements. Thus, it is somewhat disingenuous for them to use bloated voter rolls as a reason for imposing additional measures such as the photo ID law. Furthermore, the state has ceded to the counties the obligation to do maintenance programs, which results in a hit or miss process (see discussion in reply brief, p 26 through p. 28).

Absentee fraud

To the extent that there has been an incidence of fraud, these have all been confined to absentee balloting. Most notably the East Chicago mayoral election case where courts found absentee voting fraud had occurred. See: Pabey vs. Pastrick 816 NE 2nd 1138 Decision by the Indiana Supreme Court in 2004.

Intimidation and vote suppression

Groth is only aware of anecdotal evidence supporting intimidation and suppression activities. While he considers the sources of this evidence credible, it is still decidedly anecdotal. Instances he is aware of include police cars parked in front of African American polling places. However, most incidents of suppression which are discussed occurred well in the past. Trevor Davidson claims a fairly large scale intimidation program in Louisville.

Challengers

There was widespread information that the state Republican Party had planned a large scale challenger operation in Democratic precincts for 2004, but abandoned the plan at the last minute.

Last year the legislature made a crucial change to election laws which will allow partisan challengers to be physically inside the polling area next to members of the precinct board. Previously, challengers at the polling place have been restricted to the 'chute,' which provides a buffer zone between voting and people engaging in political activity. That change will make it much easier to challenge voters. As there is no recorded legislative history in Indiana, it is difficult to determine the justification behind this change. As both chambers and the governorship are under single-party control, the challenger statute was passed under the radar screen.

Photo ID and Challengers

Observers are especially concerned about how this change will work in conjunction with the photo ID provision. Under the law, there are at least two reasons why a member of the precinct board or a challenger can raise object to an ID: whether a presented ID conforms to ID standards, and whether the photo on an ID is actually a picture of the voter presenting it. The law does not require bipartisan agreement that a challenge is valid. All it takes is one challenge to raise a challenge to that voter, and that will lead to the voter voting by provisional ballot.

Provisional ballot voting means that voter must make a second trip to the election board (located at the county seat) within 13 days to produce the conforming ID or to swear out an affidavit that they are who they claim to be. This may pose a considerable burden to voters. For example, Indianapolis and Marion County are coterminous—anyone challenged under the law will be required to make second trip to seat of government in downtown Indianapolis. If the voter in question did not have a driver's license in the first place, they will likely need to arrange transportation. Furthermore, in most cases the election result will already be known.

The law is vague about acceptable cause for challenging a voter's ID. Some requirements for valid photo ID include being issued by state or fed gov't, w/ expiration date, and the names must conform exactly. The League of Women Voters is concerned about voters

with hyphenated names, as the Indiana DMV fails to put hyphens on driver's licenses potentially leading to a basis for challenge. Misspelling of names would also be a problem. The other primary mode of challenge is saying the photo doesn't look like the voter, which could happen in a range of instances. Essentially, the law gives unbridled discretion to challengers to decide what conforms and what does not.

Furthermore, there is no way to determine whether a challenge is in good or bad faith, and *there is* little penalty for making a bad faith challenge. The fact that there are no checks on the challenges at the precinct level, or even a requirement of concurrence from an opposing party challenger leads to the concern that challenge process will be abused. The voter on the other hand, will need to get majority approval of county election board members to defeat the challenge.

Groth suggests the political situation in Indianapolis also presents a temptation to abuse this process, as electoral margins are growing increasingly close due to shifting political calculus.

Other cases

Groth's other election law work has included a redistricting dispute, a dispute over ballot format, NVRA issues, and a case related to improper list purging, but nothing else related to fraud or intimidation. The purging case involved the election board attempting to refine its voter list by sending registration postcards to everyone on the list. When postcards didn't come back they wanted to purge those voters. Groth blames this error more on incompetence, than malevolence, however, as the county board is bipartisan. (The Indiana Election Commission and the Indiana election division are both bipartisan, but the 92 county election boards which will be administering photo id are controlled by one political party or the other—they are always an odd number, with the partisan majority determined by who controls the clerk of circuit court office.)

Recommendations

Supports nonpartisan administration of elections. Indiana specific recommendations including a longer voting day, time off for workers to vote, and an extended registration period.

He views the central problem of the Indiana photo ID law is that the list of acceptable forms of ID is too narrow and provides no fallback to voters without ID. At the least, he believes the state needs to expand the list so that most people will have at least one. If not, they should be allowed to swear an affidavit regarding their identity, under penalty of perjury/felony prosecution. This would provide sufficient deterrence for anyone considering impersonation fraud. He believes absentee ballot fraud should be addressed by requiring those voters to produce ID as well, as under HAVA.

His personal preference would be signature comparison. Indiana has never encountered an instance of someone trying to forge a name in the poll book, and while this leaves

open the prospect of dead voters, that danger will be substantially diminished by the statewide database. But if we are going to have some form of ID, he believes we should apply it to everyone and avoid disenfranchisement, provided they swear an affidavit.

Interview with Neil Bradley, February 21, 2004

Voter Impersonation Cases (issue the Georgia ID litigation revolves around)

Mr. Bradley asserted that Georgia Secretary of State Cox stated in the case at issue: that she clearly would know if there had been any instances of voter impersonation at the polls; that she works very closely with the county and local officials and she would have heard about voter impersonation from them if she did not learn about it directly; and that she said that she had not heard of “any incident”---which includes acts that did not rise to the level of an official investigation or charges.

Mr. Bradley said that it is also possible to establish if someone has impersonated another voter at the polls. Officials must check off the type of voter identification the voter used. Voters without ID may vote by affidavit ballot. One could conduct a survey of those voters to see if they in fact voted or not.

The type of voter fraud that involves impersonating someone else is very unlikely to occur. If someone wants to steal an election, it is much more effective to do so using absentee ballots. In order to change an election outcome, one must steal many votes. Therefore, one would have to have lots of people involved in the enterprise, meaning there would be many people who know you committed a felony. It's simply not an efficient way to steal an election.

Mr. Bradley is not aware of any instance of voter impersonation anywhere in the country except in local races. He does not believe it occurs in statewide elections.

Voter fraud and intimidation in Georgia

Georgia's process for preventing ineligible ex-felons from casting ballots has been improved since the Secretary of State now has the power to create the felon purge list. When this was the responsibility of the counties, there were many difficulties in purging felons because local officials did not want to have to call someone and ask if he or she was a criminal.

The State Board of Elections has a docket of irregularity complaints. The most common involve an ineligible person mailing in absentee ballots on behalf of another voter.

In general, Mr. Bradley does not think voter fraud and intimidation is a huge problem in Georgia and that people have confidence in the vote. The biggest problems are the new ID law; misinformation put out by elections officials; and advertisements that remind people that vote fraud is a felony, which are really meant to be intimidating. Most fraud that does occur involves an insider, and that's where you find the most prosecutions. Any large scale fraud involves someone who knows the system or is in the courthouse.

Prosecution of Fraud and Intimidation

Mr. Bradley stated that fraud and intimidation are hard to prosecute. However, Mr. Bradley made contradictory statements. When asked whether the decision to prosecute on the county level was politically motivated, he first said "no." Later, Mr. Bradley reversed himself stating the opposite.

Mr. Bradley also stated that with respect to US Attorneys, the message to them from the top is that this is not a priority. The Georgia ACLU has turned over information about violations of the Voting Rights Act that were felonies, and the US Attorney has done nothing with the information. The Department of Justice has never been very aggressive in pursuing cases of vote suppression, intimidation and fraud. But, the Georgia ACLU has not contacted Craig Donsanto in DC with information of voter fraud.

Mr. Bradley believes that voter fraud and intimidation is difficult to prove. It is very hard to collect the necessary factual evidence to make a case, and doing so is very labor-intensive.

Recommendations

In Georgia, the Secretary of State puts a lot of work into training local officials and poll workers, and much of her budget is put into that work. Increased and improved training of poll workers, including training on how to respectfully treat voters, is the most important reform that could be made.

Mr. Bradley also suggested that increased election monitoring would be helpful.

Interview with Douglas Webber, Assistant Attorney General, Indiana

February 15, 2006

Background

Mr. Webber was an attorney for the Marion County Election Board and was also part of the Indianapolis Ballot Security Team (sometimes called the Goon Squad). This Team was a group of attorneys well trained in election law whose mission was to enforce ballot security.

Litigation

Status of litigation in Indiana: On January 12 the briefing was completed. The parties are waiting for a decision from the U.S. district judge. The judge understood that one of the parties would seek a stay from the 7th Circuit Court of Appeals. The parties anticipate a decision in late March or early April. Mr. Webber did the discovery and depositions for the litigation. Mr. Webber feared the plaintiffs were going to state in their reply brief that HAVA's statewide database requirement would resolve the problems alleged by the state. However, the plaintiffs failed to do so, relying on a Motor Voter Act argument instead. Mr. Webber believes that the voter ID at issue will make the system much more user-friendly for the poll workers. The Legislature passed the ID legislation, and the state is defending it, on the basis of the problem of the *perception* of fraud.

Incidents of fraud and intimidation

Mr. Webber thinks that no one can put his or her thumb on whether there has been voter fraud in Indiana. For instance, if someone votes in place of another, no one knows about it. There have been no prosecuted cases of polling place fraud in Indiana. There is no recorded history of documented cases, but it does happen. In the litigation, he used articles from around the country about instances of voter fraud, but even in those examples there were ultimately no prosecutions, for example the case of Milwaukee. He also stated in the litigation that there are all kinds of examples of dead people voting--totaling in the hundreds of thousands of votes across the country.

One interesting example of actual fraud in Indiana occurred when a poll worker, in a poll using punch cards, glued the chads back and then punched out other chads for his candidate. But this would not be something that would be addressed by an ID requirement.

He also believes that the perception that the polls are loose can be addressed by the legislature. The legislature does not need to wait to see if the statewide database solve the problems and therefore affect the determination of whether an ID requirement is necessary. When he took the deposition of the Republican Co-Director, he said he thought Indiana was getting ahead of the curve. That is, there have been problems around the country, and confidence in elections is low. Therefore Indiana is now in front of getting that confidence back.

Mr. Webber stated that the largest vote problem in Indiana is absentee ballots. Absentee ballot fraud and vote buying are the most documented cases. It used to be the law that applications for absentee ballots could be sent anywhere. In one case absentee votes were exchanged for "a job on election day"---meaning one vote for a certain price. The election was contested and the trial judge found that although there was vote fraud, the incidents of such were less than the margin of victory and so he refused to overturn the election. Mr. Webber appealed the case for the state and argued the judge used the wrong statute. The Indiana Supreme Court agreed and reversed. Several people were prosecuted as a result – those cases are still pending.

Process

In Indiana, voter complaints first come to the attorney for the county election board who can recommend that a hearing be held. If criminal activity was found, the case could be referred to the county prosecutor or in certain instances to the Indiana Attorney General's Office. In practice, the Attorney General almost never handles such cases.

Mr. Webber has had experience training county of election boards in preserving the integrity and security of the polling place from political or party officials. Mr. Webber stated that the Indiana voter rolls need to be culled. He also stated that in Southern Indiana a large problem was vote buying while in Northern Indiana a large problem was based on government workers feeling compelled to vote for the party that gave them their jobs.

Recommendations

- Mr. Webber believes that all election fraud and intimidation complaints should be referred to the Attorney General's Office to circumvent the problem of local political prosecutions. The Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes. At the local level, everyone knows each other, making it harder prosecute.
- Indiana currently votes 6 am to 6 pm on a weekday. Government workers and retirees are the only people who are available to work the polls. Mr. Webber suggested that the biggest change should be to move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.
- Early voting at the clerk's office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk's office. This should be expanded to other polling places in addition to that of the county clerk.
- Finally, Mr. Webber believes polling places should be open longer, run more professionally but that there needs to be fewer of them so that they are staffed by only the best, most professional people.

Interview with Wade Henderson, Executive Director, Leadership Conference for Civil Rights

February 14, 2006

Data Collection

Mr. Henderson had several recommendations as to how to better gather additional information and data on election fraud and intimidation in recent years. He suggested interviewing the following individuals who have been actively involved in Election Protection and other similar efforts:

- Jon Greenbaum, Lawyers Committee for Civil Rights
- Tanya Clay, People for the American Way
- Melanie, Campbell, National Coalition for Black Political Participation
- Larry Gonzalez, National Association of Latino Election Officers
- Jacqueline Johnson, National Congress of American Indians
- Chellie Pingree, Common Cause
- Jim Dickson, disability rights advocate
- Mary Berry, former Chair of the US Commission on Civil Rights, currently at the University of Pennsylvania
- Judith Browne and Eddie Hailes, Advancement Project (former counsel to the US Commission on Civil Rights)
- Robert Rubin, Lawyers Committee for Civil Rights – San Francisco Office
- Former Senator Tom Daschle (currently a fellow at The Center for American Progress)

He also recommended we review the following documents and reports:

- The 2004 litigation brought by the Advancement Project and SEIU under the 1981 New Jersey Consent Decree
- Forthcoming LCCR state-by-state report on violations of the Voting Rights Act
- Forthcoming Lawyers Committee report on violations of the Voting Rights Act (February 21)

Types of Fraud and Intimidation Occurring

Mr. Henderson said he believed that the kinds of voter intimidation and suppression tactics employed over the last five years are ones that have evolved over many years. They are sometimes racially based, sometimes based on partisan motives. He believes the following types of activity have actually occurred, and are not just a matter of anecdote and innuendo, and rise to the level of either voter intimidation or vote suppression:

- Flyers with intentional misinformation, such as ones claiming that if you do not have identification, you cannot vote, and providing false dates for the election
- Observers with cameras, which people associate with potential political retribution or even violence

- Intimidating police presence at the polls
- Especially in jurisdictions that authorize challenges, the use of challenge lists and challengers goes beyond partisanship to racial suppression and intimidation
- Unequal deployment of voting equipment, such as occurred in Ohio. Also, he has seen situations in which historically Black colleges will have one voting machine while other schools will have more.

Mr. Henderson believes that these matters are not pursued formally because often they involve activities that current law does not reach. For example, there is no law prohibiting a Secretary of State from being the head of a political campaign, and then deploying voting machines in an uneven manner. There is no way to pursue that. Also, once the election is over, civil litigation becomes moot. Finally, sometimes upon reflection after the campaign, some of the activities are not as sinister as believed at the time.

Mr. Henderson believes government does not engage in a sustained investigation of these matters or pursue any kind of resolution to them. LCCR has filed a FOIA request with both the Civil Rights Division and the Criminal Division of the Department of Justice to examine this issue.

Election Protection activities will be intensified for the 2006 elections, although the focus may shift somewhat given the implementation of new HAVA requirements.

Recommendations for Reform

There was tremendous concern after the 2004 election about conflicts of interest – the “Blackwell problem” – whereby a campaign chair is also in charge of the voting system. We need to get away from that.

He also supports Senator Barak Obama’s bill regarding deceptive practices, and is opposed to the voter identification laws passing many state legislatures.

- States should adopt election-day registration, in order to boost turnout as well as to allow eligible voters to immediately rectify erroneous or improperly purged registration records
- Expansion of early voting & no-excuse absentee voting, to boost turnout and reduce the strain on election-day resources.
- Provisional ballot reforms:
 - Should be counted statewide – if cast in the wrong polling place, votes should still be counted in races for which the voter was eligible to vote (governor, etc.)
 - Provisional ballots should also function as voter registration applications, to increase the likelihood that voters will be properly registered in future elections
- Voter ID requirements: states should allow voters to use signature attestation to establish their identity

- The Department of Justice should increase enforcement of Americans with Disabilities Act and the accessibility requirements of the Help America Vote Act
- Statewide registration databases should be linked to social service agency databases
- Prohibit chief state election officials from simultaneously participating in partisan electoral campaigns within their states
- Create and enforce strong penalties for deceptive or misleading voting practices

014813

Interview with Wendy Weiser, Deputy Director, Democracy Program, The Brennan Center

Brennan Center findings on fraud

The Brennan Center's primary work on fraud is their report for the Carter Baker Commission with commissioner Spencer Overton, written in response to the Commission's ID recommendations. Brennan reviewed all existing reports and election contests related to voter fraud. They believe the contests serve as an especially good record of whether or not fraud exists, as the parties involved in contested elections have a large incentive to root out fraudulent voters. Yet despite this, the incidence of voter impersonation fraud discovered is extremely low—something on the order 1/10000th of a percentage of voters. See also the brief Brennan filed on 11th circuit in Georgia photo ID case which cites sources in Carter Baker report and argues the incidence of voter fraud too low to justify countermeasures.

Among types of fraud, they found impersonation, or polling place fraud, is probably the least frequent type, although other types, such as absentee ballot fraud are also very infrequent. Weiser believes this is because impersonation fraud is more likely to be caught and is therefore not worth the risk. Unlike in an absentee situation, actual poll workers are present to disrupt impersonation fraud, for instance, by catching the same individual voting twice. She believes perhaps one half to one quarter of the time the person will be caught. Also, there is a chance the pollworker will have personal knowledge of the person. Georgia Secretary of State Cathy Cox has mentioned that there are many opportunities for discovery of in person fraud as well. For example, if one votes in the name of another voter, and that voter shows up at the polls, the fraud will be discovered.

Weiser believes court proceedings in election contests are especially useful. Some are very extensive, with hundreds of voters brought up by each side and litigated. In both pre-election challenges and post-election contests, parties have devoted extraordinary resources into 'smoking out' fraudulent voters. Justin Leavitt at Brennan scoured such proceedings for the Carter Baker report, which includes these citations. Contact him for answers to particular questions.

Countermeasures/statewide databases

Brennan has also considered what states are doing to combat impersonation fraud besides photo ID laws, although again, it seems to be the rarest kind of fraud, beyond statistically insignificant. In the brief Brennan filed in the Georgia case, the Center detailed what states are already doing to effectively address fraud. In another on the web site includes measures that can be taken that no states have adopted yet. Weiser adds that an effort to look at strategies states have to prevent fraud, state variations, effectiveness, ease of enforcement would be very useful.

Weiser believes the best defense against fraud will be better voter lists—she argues the fraud debate is actually premature because states have yet to fully implement the HAVA database requirement. This should eliminate a great deal of 'deadwood' on voter rolls and undermine the

common argument that fraud is made possible by this deadwood. This was the experience for Michigan, which was able to remove 600,000 names initially, and later removed almost 1 million names from their rolls. It is fairly easy to cull deadwood from lists due to consolidation at the state level—most deadwood is due to individuals moving within the state and poor communication between jurisdictions. (Also discuss with Chris Thomas, who masterminded the Michigan database for more information and a historical perspective.)

Regarding the question of whether the effect of this maintenance on fraud in Michigan can be quantified, Weiser would caution against drawing direct lines between list problems and fraud. Brennan has found various groups abusing the existence of list deadwood to make claims about fraudulent voting. This is analyzed in greater detail in the Brennan Center's critique of a purge list produced by the NJ Republican party, and was illustrated by the purge list produced by the state of Florida. When compiling such lists and doing comparisons, sound statistical methods must be utilized, and often are not.

The NJ GOP created a list and asked NJ election officials to purge names of ineligible voters on it. Their list assumed that people appearing on the list twice had voted twice. Brennan found their assumptions shoddy and based on incorrect statistical practices, such as treating individuals with the same name and birthdays as duplicates, although this is highly unlikely according to proper statistical methods. Simply running algorithms on voter lists creates a number of false positives, does not provide an accurate basis for purging, and should not be taken as an indicator of fraud.

Regarding the Florida purge list, faulty assumptions caused the list to systematically exclude Hispanics while overestimating African Americans. Matching protocols required that race fields match exactly, despite inconsistent fields across databases.

The kinds of list comparisons that are frequently done to allege fraud are unreliable. Moreover, even if someone is on a voter list twice, that does not mean that voter has voted twice. That, in fact, is almost never the case.

Ultimately, even matching protocols without faulty assumptions will have a 4 percent to 35 percent error rate—that's simply the nature of database work. Private industry has been working on improving this for years. Now that HAVA has introduced a matching requirement, even greater skepticism is called for in judging the accuracy of list maintenance.

Intimidation and Suppression

Brennan does not have a specific focus here, although they do come across it and have provided assistance on bills to prevent suppression and intimidation. They happen to have an extensive paper file of intimidating fliers and related stories from before the 2004 election. (They can supply copies after this week).

Challengers

Brennan has analyzed cases where challenger laws have been beneficial and where they have been abused. See the decision and record from the 1982 NJ vs. RNC case for some of the history of these laws. Brennan is currently working on developing a model challenger law.

Weiser believes challenge laws with no requirement that the challenger have any specific basis for the challenge or showing of ineligibility are an invitation to blanket harassing challenges and have a range of pitfalls. State laws are vague and broad and often involve arcane processes such as where voters are required to meet a challenge within 5 days. There are incentives for political abuse, potential for delaying votes and disrupting the polls, and they are not necessarily directed toward the best result. Furthermore, when a voter receives a mailer alleging vote fraud with no basis, even the mere fact of a challenge can be chilling. A voter does not want to have to go through a quasi-court proceeding in order to vote.

Brennan recommends challenge processes that get results before election, minimize the burden for voters, and are restricted at polling place to challenges by poll workers and election officials, not voters. They believe limitless challenges can lead to pandemonium—that once the floodgates are open they won't stop.

Recommendations

Intimidation— Weiser believes Sen. Barak Obama's bill is a good one for combating voter harassment and deceptive practices. Many jurisdictions do not currently have laws prohibiting voter harassment and deceptive practices.

Fraud— Current state and federal codes seem sufficient for prosecuting fraud. Weiser doesn't consider them under-enforced, and sees no need for additional laws.

Voter lists— New legislation or regulations are needed to provide clear guidance and standards for generating voter lists and purging voters, otherwise states could wrongfully disenfranchise eligible voters.

Challengers—Challenge laws need to be reformed, especially ones that allow for pre-election mass challenges with no real basis. There is no one size fits all model for challenger legislation, but some bad models involving hurdles for voters lead to abuse and should be reformed. There should be room for poll workers to challenge fraudulent voters, but not for abuse.

Also useful would be recommendations for prosecutors investigating fraudulent activity, How should they approach these cases? How should they approach cases of large scale fraud/intimidation? While there is sufficient legislative cover to get at any election fraud activity, questions remain about what proper approaches and enforcement strategies should be.

014816



April 16, 2007

MEMORANDUM

To: EAC Inspector General Curtis Crider
Fr: EAC Chair Donetta Davidson
Cc: Commissioners Rodriguez, Hillman and Hunter, Tom Wilkey, and Julie Hodgkins
RE: EAC requests review of contracting procedures

On Friday, April 13, each of my three colleagues -- Rosemary Rodriguez, Gracia Hillman, and Caroline Hunter -- agreed with my recommendation that we issue the following formal request to the Commission's Office of Inspector General to review the circumstances surrounding two recent EAC research projects -- vote fraud and voter intimidation and voter identification.

Background

The U.S. Election Assistance Commission (EAC) is an independent, bipartisan Commission created by the Help America Vote Act (HAVA) of 2002.

EAC develops guidance to meet HAVA requirements, adopts voluntary voting system guidelines, accredits voting system test laboratories, certifies voting systems and audits the use of HAVA funds. HAVA also directs EAC to maintain the national mail voter registration form developed in accordance with the National Voter Registration Act (NVRA) of 1993.

The Commission serves as a national clearinghouse and resource of information regarding election administration. It is under the Commission's clearinghouse role that research projects are conducted with the goal of providing information that will lead to improvements in election administration, as well as inform the public about how, where and when we vote.

The voter identification research was conducted by Rutgers, the State University of New Jersey, through its Eagleton Institute of Politics ("Contractor"). The contract, awarded in May 2005, required the Contractor to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches. Last month, the commission voted

unanimously not to adopt the report, citing concerns with its methodology, but voted to release all of the data provided by the Contractor.

The vote fraud and voter intimidation research was conducted by Tova Wang and Job Serebrov ("Consultants"). The contracts, awarded in September 2005, issued to these Consultants tasked them with defining the terms vote fraud and voter intimidation and providing recommendations how to conduct extensive research in the future on these topics. The contract stated that the Consultants were responsible for "creating a report summarizing the findings of this preliminary research effort and Working Group deliberations. This report should include any recommendations for future EAC research resulting from this effort."

Review Request

The actions taken by the Commission regarding both the voter identification and the vote fraud and voter intimidation research projects have been challenged. Specifically, Members of Congress, the media, and the public have suggested that political motivations may have been part of the Commission's decision making process regarding these two projects. Also, the Commission has been criticized for the amount of taxpayer dollars that were spent on these two projects, as well as how efficiently these projects were managed.

The Commission takes these allegations very seriously, and we request that you fully review the following issues and provide the Commission and the Congress with a report of your findings as soon as possible. The Commission stands ready to assist you in these efforts and will provide whatever information, including memos, emails and other documents you will need. Cooperating with your review will be the staff's top priority.

1. Current Commission policy regarding awarding and managing research contracts.
2. Issuance and management of the vote fraud and voter intimidation contract.
3. Circumstances surrounding the receipt of information from Consultants regarding the vote fraud and voter intimidation project.
4. Circumstances surrounding staff efforts to write a final report for Commission consideration.
5. Identification of staff members who assisted in the editing and collaboration of the final vote fraud and voter intimidation report for Commission consideration.
6. Staff and/or Commissioner collaboration with political entities or other federal agencies regarding the vote fraud and voter intimidation project.
7. Circumstances surrounding Commission discussion and deliberation of final adoption of *Election Crimes: An Initial Review and Recommendation for Further Study*.
8. Issuance and management of the voter identification contract.
9. Circumstances surrounding the receipt of information from Contractor regarding the voter identification report.
10. Identification of staff members who assisted in the editing, collaboration, and recommendation to the Commission regarding final adoption of the voter identification report.

014818

11. Staff and/or Commissioner collaboration with political entities or other federal agencies regarding the voter identification project.
12. Circumstances surrounding Commission deliberation whether to adopt a final voter identification report.

For your information, I have attached statements and related correspondence from Members of Congress, and a statement issued by the Commission regarding the criticism.

It is our hope that your findings will instruct us how to move forward in a more efficient, effective and transparent manner. The Commission takes its mandates under HAVA very seriously, and this small Commission has an enormous amount of work to conduct, including testing and certifying voting equipment, providing guidance and assistance to election officials, and auditing the proper use of the \$3.1 billion that was distributed under HAVA.

We look forward to your findings so that we may take the actions necessary to improve the way we conceive research projects, manage research contracts, and make decisions regarding the final release of data provided to the Commission from a third party.

United States Senate
WASHINGTON, DC 20510

April 12, 2007

The Honorable Donetta Davidson
Chairman
U.S. Election Assistance Commission
1225 New York Avenue, N.W.
Suite 1100
Washington, DC 20005

Dear Commissioner Davidson:

We are writing to seek a response to very troubling news reports that included allegations that the Commission may have altered or delayed release of two taxpayer-funded studies of election issues for political purposes.

While the Commission is within its rights to decide what guidance it issues to election officials, it is critical that its actions are not perceived as politically motivated and it is imperative that you provide full documentation about the Commission's proceedings on these matters.

On Wednesday, the *New York Times* reported that a bipartisan team of election law experts hired by the Commission to research voter fraud in federal elections found that there was little such fraud around the nation, but the Commission revised the report to say that the pervasiveness of voter fraud was still open to debate.

On Monday, *Roll Call* reported that the Commission two weeks ago rejected the findings of a report, prepared as part of a \$560,000 contract with Rutgers University's Eagleton Institute and Ohio State University's Moritz College of Law. That report found that voter identification laws may reduce election turnout, especially by minorities.

014820

Commissioner Davidson

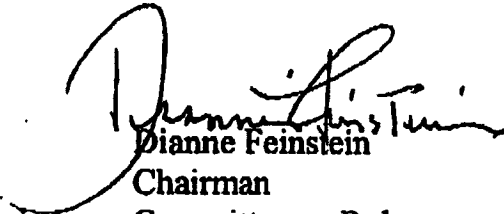
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April 12, 2007


It is imperative that the Commission's actions and deliberations are unbiased, free from political influence and transparent. While the Commission does not have to agree with the experts who perform its research, it should make the research available unfettered and unfiltered.

Attached are a series of questions, we would like the Commission to address. We look forward to your timely response.

Sincerely,



Dianne Feinstein
Chairman
Committee on Rules
and Administration



Richard J. Durbin
Chairman
Subcommittee on Financial
Services and General
Government
Committee on Appropriations

014821

We request information and documentation from the Commission that answer the following questions:

COMMISSION'S OVERSIGHT ON EAGLETON CONTRACT TO PERFORM A STUDY ON VOTER IDENTIFICATION

1. Did the Commissioners or Commission senior staff receive any outside communication or pressure to change or not release the entire draft report or portions of the draft language on the voter fraud report? If so, who made those requests?
2. Would you please provide a copy of the approved Request For Proposals, as well as any contract modifications that were agreed to between the Commission and Eagleton Institute and subcontractors?
3. Can you provide the names and qualifications of Election Assistance Commission staff that worked on the Eagleton Institute project?
4. Please indicate how many project meetings occurred during the term of the Eagleton contract, including in-person meetings, conference calls regarding the status of the report, and any meeting where Commissioners were present for at least part of the meeting. Please provide copies of any minutes from those meetings.
5. Please identify the names and affiliations of members of the Peer Review group or groups that examined the Eagleton Institute drafts. Please also indicate the dates upon which any such review of the Eagleton research was conducted, and the specific concerns or complaints that were raised by members of the Peer Review group as to either the analysis or statistical methodology, if any. Please provide copies of any minutes from those meetings.
6. If certain members of the Peer Review groups had concerns with the data or methodology of the Eagleton study, was that information communicated to Eagleton, and were any changes made to the study based on Peer Review group concerns with methodology or data?
7. Who were the individuals (and what were their academic qualifications) that advised the Commission that the data, methodology, or the results of the Eagleton Contract were so flawed that the Commission should reject the report? At what point did the Commission receive input from those individuals?

8. The Commission previewed its research on the Eagleton Institute's study on Provisional Voting at its May 2006 Advisory Board meetings—why was the Voter Identification Draft Study not discussed at that time? What is the status of the Provisional Voting report?
9. In rejecting the Eagleton report, the Commission indicated concerns that there was only one year's worth of data. Given that this was the first year that Commission had studied the results, isn't "one year" what was originally contemplated in the Eagleton contract? Isn't the reason for having a major research institute conduct this study is so they can draw initial assessments from that data—even though that data can be augmented in future years? Because of the rejected report, will the Commission start anew for research in the 2008 elections?
10. What was the final, total cost of the Eagleton contract, and what was produced or released by that Commission as a result of that contract?

COMMISSION'S OVERSIGHT OVER VOTER FRAUD/INTIMIDATION STUDY

1. Did the Commissioners or Commission senior staff receive any outside communication or pressure to change or not release the entire draft report or portions of the draft language on the voter fraud report? If so, who made those requests?
2. Given the bipartisan nature of the Working Group that guided the Voter Fraud/Intimidation report, and the bipartisan nature of the contracted experts who uniformly support the results of this report, what concerns lead the Commission to determine the report should not be released?
3. If there were points in the report that the Commission objected to, were there attempts to work with the contractors to deal with specific concerns? If there were such attempts, please describe them.

014825

4. Who drafted the Commission summary (released in December, 2006) of the Voter Fraud/Intimidation report, and what were their credentials and involvement in the original research process? Were there instructions or guidance given from Commissioners or senior staff as to what portions of the research should be emphasized? Who at the Commission reviewed the summarized report? Since the contracted experts are referred to in the Commission's released report, were the contractors allowed a chance to review or edit that Commission's final report that was released in December, 2006?
5. Please provide copies of any electronic or written communications between Commission employees that relate to the editing of the Voter Fraud/Intimidation report.
6. Please explain what Mr. Job Serebrov was referring to in his email referenced in the *New York Times* article of April 11, 2007. Please provide any documents in the Commission's possession where employees or contracted experts discussed pressure, political sensitivities, or the failure of the Commission to adopt the Voter Fraud/Intimidation report from March 1, 2006 to present.
7. While we realize that the Commission voted to release its summary report in December 2006, was there a public vote taken to reject the Draft Voter Fraud/Intimidation report? Such a monumental decision to reject the contract experts' work is a policy decision, and one that should be done in public. When was the decision made to reject the original report, and what notice was provided to the public that the Commission would reject that report?
8. Prior to the Draft Voter Fraud/Intimidation report's release, had other organizations requested a copy of that original report? Please include copies of your responses to those organizations, if any.
9. Had any States requested that the Commission or staff provide guidance related to voter identification requirements in the Help America Vote Act, or identification requirements generally? Please provide those requests, and any responses from the Commission.
10. Please indicate what steps the Commission is taking to ensure that political considerations do not impact the agency's research and that decisions are handled in a public and transparent manner.

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turning out to be accurate according to investigations by the newspapers themselves, elections officials and criminal investigators. Often the problem turned out to be a result of administrative error, poll workers mis-marking of voter lists, a flawed registration list and/or errors made in the attempt to match names of voters on the list with the names of the people who voted. In a good number of cases, there were allegations that charges of double voting by political leaders were an effort to scare people away from the voting process.

Nonetheless there were a few cases of people actually being charged and/or convicted for these kinds of activities. Most of the cases involved a person voting both by absentee ballot and in person. A few instances involved people voting both during early voting and on Election Day, which calls into question the proper marking and maintenance of the voting lists. In many instances, the person charged claimed not to have voted twice on purpose. A very small handful of cases involved a voter voting in more than one county and there was one substantiated case involving a person voting in more than one state. Other instances in which such efforts were alleged were disproved by officials.

In the case of voting in the name of a dead person, the problem lay in the voter registration list not being properly maintained, i.e. the person was still on the registration list as eligible to vote, and a person taking criminal advantage of that. In total, the San Francisco Chronicle found 5 such cases in March 2004; the AP cited a newspaper analysis of five such persons in an Indiana primary in May 2004; and a senate committee found two people to have voted in the names of the dead in 2005.

As usual, there were a disproportionate number of such articles coming out of Florida. Notably, there were three articles out of Oregon, which has one hundred percent vote-by-mail.

Vote Buying

There were a surprising number of articles about vote buying cases. A few of these instances involved long-time investigations in three particular jurisdictions as detailed in the vote buying summary. There were more official investigations, indictments and convictions/pleas in this area. All of these cases are concentrated in the Midwest and South.

Deceptive Practices

In 2004 there were numerous reports of intentional disinformation about voting eligibility and the voting process meant to confuse voters about their rights and when and where to vote. Misinformation came in the form of flyers, phone calls, letters, and even people going door to door. Many of the efforts were reportedly targeted at minority communities. A disproportionate number of them came from key battleground states, particularly Florida, Ohio, and Pennsylvania. From the news reports found, only one of these instances was officially investigated, the case in Oregon involving the destruction

of voter registration forms. There were no reports of prosecutions or any other legal proceeding.

Non-citizen Voting

There were surprisingly few articles regarding noncitizen registration and voting – just seven all together, in seven different states across the country. They were also evenly split between allegations of noncitizens registering and noncitizens voting. In one case charges were filed against ten individuals. In one case a judge in a civil suit found there was illegal noncitizen voting. Three instances prompted official investigations. Two cases, from this nexis search, remained just allegations of noncitizen voting.

Felon Voting

Although there were only thirteen cases of felon voting, some of them involved large numbers of voters. Most notably, of course, are the cases that came to light in the Washington gubernatorial election contest (see Washington summary) and in Wisconsin (see Wisconsin summary). In several states, the main problem has the large number of ineligible felons that remained on the voting list.

Election Official Fraud

In most of the cases in which fraud by elections officials is suspected or alleged, it is difficult to determine whether it is incompetence or a crime. There are several cases of ballots gone missing, ballots unaccounted for and ballots ending up in a worker's possession. In two cases workers were said to have changed peoples' votes. The one instance in which widespread ballot box stuffing by elections workers was alleged was in Washington State. The judge in the civil trial of that election contest did not find that elections workers had committed fraud. Four of the cases are from Texas.



April 16, 2007

MEMORANDUM

To: EAC Inspector General Curtis Crider
Fr: EAC Chair Donetta Davidson
Cc: Commissioners Rodriguez, Hillman and Hunter, Tom Wilkey, and Julie Hodgkins
RE: EAC requests review of contracting procedures

On Friday, April 13, each of my three colleagues – Rosemary Rodriguez, Gracia Hillman, and Caroline Hunter -- agreed with my recommendation that we issue the following formal request to the Commission’s Office of Inspector General to review the circumstances surrounding two recent EAC research projects – vote fraud and voter intimidation and voter identification.

Background

The U.S. Election Assistance Commission (EAC) is an independent, bipartisan Commission created by the Help America Vote Act (HAVA) of 2002.

EAC develops guidance to meet HAVA requirements, adopts voluntary voting system guidelines, accredits voting system test laboratories, certifies voting systems and audits the use of HAVA funds. HAVA also directs EAC to maintain the national mail voter registration form developed in accordance with the National Voter Registration Act (NVRA) of 1993.

The Commission serves as a national clearinghouse and resource of information regarding election administration. It is under the Commission’s clearinghouse role that research projects are conducted with the goal of providing information that will lead to improvements in election administration, as well as inform the public about how, where and when we vote.

The voter identification research was conducted by Rutgers, the State University of New Jersey, through its Eagleton Institute of Politics (“Contractor”). The contract, awarded in May 2005, required the Contractor to perform a review and legal analysis of state legislation, administrative procedures and court cases, and to perform a literature review on other research and data available on the topic of voter identification requirements. Further, the Contractor was asked to analyze the problems and challenges of voter identification, to hypothesize alternative approaches and to recommend various policies that could be applied to these approaches. Last month, the commission voted

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unanimously not to adopt the report, citing concerns with its methodology, but voted to release all of the data provided by the Contractor.

The vote fraud and voter intimidation research was conducted by Tova Wang and Job Serebrov ("Consultants"). The contracts, awarded in September 2005, issued to these Consultants tasked them with defining the terms vote fraud and voter intimidation and providing recommendations how to conduct extensive research in the future on these topics. The contract stated that the Consultants were responsible for "creating a report summarizing the findings of this preliminary research effort and Working Group deliberations. This report should include any recommendations for future EAC research resulting from this effort."

Review Request

The actions taken by the Commission regarding both the voter identification and the vote fraud and voter intimidation research projects have been challenged. Specifically, Members of Congress, the media, and the public have suggested that political motivations may have been part of the Commission's decision making process regarding these two projects. Also, the Commission has been criticized for the amount of taxpayer dollars that were spent on these two projects, as well as how efficiently these projects were managed.

The Commission takes these allegations very seriously, and we request that you fully review the following issues and provide the Commission and the Congress with a report of your findings as soon as possible. The Commission stands ready to assist you in these efforts and will provide whatever information, including memos, emails and other documents you will need. Cooperating with your review will be the staff's top priority.

1. Current Commission policy regarding awarding and managing research contracts.
2. Issuance and management of the vote fraud and voter intimidation contract.
3. Circumstances surrounding the receipt of information from Consultants regarding the vote fraud and voter intimidation project.
4. Circumstances surrounding staff efforts to write a final report for Commission consideration.
5. Identification of staff members who assisted in the editing and collaboration of the final vote fraud and voter intimidation report for Commission consideration.
6. Staff and/or Commissioner collaboration with political entities or other federal agencies regarding the vote fraud and voter intimidation project.
7. Circumstances surrounding Commission discussion and deliberation of final adoption of *Election Crimes: An Initial Review and Recommendation for Further Study*.
8. Issuance and management of the voter identification contract.
9. Circumstances surrounding the receipt of information from Contractor regarding the voter identification report.
10. Identification of staff members who assisted in the editing, collaboration, and recommendation to the Commission regarding final adoption of the voter identification report.

11. Staff and/or Commissioner collaboration with political entities or other federal agencies regarding the voter identification project.
12. Circumstances surrounding Commission deliberation whether to adopt a final voter identification report.

For your information, I have attached statements and related correspondence from Members of Congress, and a statement issued by the Commission regarding the criticism.

It is our hope that your findings will instruct us how to move forward in a more efficient, effective and transparent manner. The Commission takes its mandates under HAVA very seriously, and this small Commission has an enormous amount of work to conduct, including testing and certifying voting equipment, providing guidance and assistance to election officials, and auditing the proper use of the \$3.1 billion that was distributed under HAVA.

We look forward to your findings so that we may take the actions necessary to improve the way we conceive research projects, manage research contracts, and make decisions regarding the final release of data provided to the Commission from a third party.

Interview List

Academics

Mike Alvarez
Steve Ansolobhere
Lorri Minnite
Chandler Davidson

Judges

Justice Tom Glaze, Supreme Court of Arkansas
Justice Charles Talley Wells, Supreme Court of Florida
Justice Evelyn Lundberg Stratton, Supreme Court of Ohio
Justice Pamela B. Minzner, Supreme Court of New Mexico

Election Administrators

Harry VanSickle, Commissioner of Elections, Pennsylvania
Mike McCarthy, Supervisor of Elections, Minnesota
John Ravitz, Board of Elections, New York City
Kevin Kennedy, Director of Elections, Wisconsin
Connie McCormick, Los Angeles County Registrar
Trey Grayson, Kentucky Secretary of State
Rebecca Vigil-Giron, New Mexico Secretary of State

Advocates

Wade Henderson, Executive Director, Leadership Conference on Civil Rights
Donna Brazile, Chair, Democratic National Committee's Voting Rights Institute
Nina Perales, Regional Counsel, Mexican American Legal Defense and Educational Fund
James A. Baker III (DC), Baker-Carter Commission
Sharon Priest (AR), former Secretary of State of Arkansas, Baker-Carter Commission
Robin DeJarnette, Executive Director, American Center for Voting Rights

Election Lawyers

Laughlin McDonald, ACLU Voting Rights Project
Wendy Weiser, Brennan Center
Joseph Sandler, Sandler, Reif & Young
Joseph Rich, former head of the Voting Section, DOJ

James Bopp, Bopp, Coleson & Bostrom
Pat Rogers, Modrall, Sperling, Roehl, Harris and Sisk, P.A.
Colleen McAndrews, Bell, McAndrews, Hiltachk, & Davidson
Charles Bell Jr., Bell, McAndrews, Hiltachk, & Davidson

Attorneys involved in the Georgia, Indiana, and Arizona Litigation

Georgia

Thurbert Baker, Georgia Attorney General (Defendants)
Laughlin McDonald and Danny Levitas, ACLU of Georgia (Plaintiffs)

Indiana

Bill Groth, Fillenwarth, Dennerline, Groth & Towe (Plaintiffs)

Thomas M. Fisher, Esq. and Douglas J. Webber, Esq. Indiana Attorney General's Office
(Defendants)

Arizona

Steve Reyes and Nina Perales, MALDEF (Plaintiffs)
Mary O'Grady, Arizona Assistant Attorney General

SUMMARY OF INFO FROM INTERVIEWS
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

Voter Suppression & Intimidation:

- Voter suppression efforts are sometimes racially based, and sometimes based on partisan considerations
- Hard to know how much vote suppression and intimidation is taking place because it depends on one's definition of the terms – they are used very loosely by some people. Many instances of what some people refer to as voter intimidation are more unclear now (e.g.; photographing voters at the polls has been called intimidating, but now everyone is at the polls with a camera). It is hard to know when something is intimidation and it is difficult to show that it was an act of intimidation
- The fact that both parties are engaging in these tactics now makes it more complicated. It makes it difficult to point the finger at any one side.
- Some advocates assert that, given the additional resources and latitude given to the DOJ enforcement of acts such as double voting and noncitizen voting, there should be an equal commitment to enforcement of acts of intimidation and suppression cases.
- Examples:
 - spreading of false information, such as phone calls, flyers, and radio ads that intentionally mislead as to voting procedures, such as claiming that if you do not have identification, you cannot vote, and providing false dates for the election
 - Observers with cameras, which people associate with potential political retribution or even violence
 - Intimidating police presence at the polls
 - open hostility by poll workers toward minorities (racial and language), or poll workers asking intimidating questions;
 - groups of officious-looking poll watchers at the poll sites who seem to be some sort of authority looking for wrongdoing;
 - challenges
 - There are cases where challenger laws have been beneficial and where they have been abused (Brennan is currently working on developing a model challenger law)
 - No way to determine whether a challenge is in good or bad faith, and there is little penalty for making a bad faith challenge. The fact that there are no checks on the challenges at the precinct level, or even a requirement of concurrence from an opposing party challenger leads to the concern that challenge process will be abused. The voter on the other hand, will need to get majority approval of county election board members to defeat the challenge.
 - Especially in jurisdictions that authorize challenges, the use of challenge lists and challengers goes beyond partisanship to racial suppression and intimidation
 - instances where civic groups and church groups intimidate members to vote in a specific manner, not for reward, but under threat of being ostracized or even telling them they will go to hell.(AR, KY)
 - moving poll sites
 - having Indians vote at polling places staffed by non-Indians often results in incidents of disrespect towards Native voters, judges aren't familiar with Indian last names and are more dismissive of solving discrepancies with native voters
 - intimidation at the poll sites in court houses. Many voters are afraid of the county judges or county employees and therefore will not vote. They justifiably believe their ballots will be opened by these employees to see who they voted for, and if they voted against the county people, retribution might ensue. (AR)

Fraud in Voting:

NOTE: Many interviewees appear to have made claims regarding the quantity and type of voting fraud based on incomplete data, their personal experience, or their impressions (e.g.; voting fraud

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SUMMARY OF INFO FROM INTERVIEWS
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

has been confined to absentee ballots; there is no in person assumption of others' voter identities to vote).

- The most commonly cited example of voting fraud mentioned was absentee ballot fraud (e.g.: vote selling involving absentee ballots, the filling out of absentee ballots en masse, people at nursing homes filling out the ballots of residents, and union leaders getting members to vote a certain way by absentee ballot).
- Many assert that impersonation, or polling place fraud, is probably the least frequent type because:
 - impersonation fraud is more likely to be caught and is therefore not worth the risk
 - unlike in an absentee situation, actual poll workers are present to disrupt impersonation fraud, for instance, by catching the same individual voting twice
 - if one votes in the name of another voter, and that voter shows up at the polls, the fraud will be discovered
 - one half to one quarter of the time the person will be caught (there is a chance the pollworker will have personal knowledge of the person, Georgia Secretary of State Cathy Cox has mentioned that there are many opportunities for discovery of in person fraud as well).
 - deterrent is that it's a felony, and that one person voting twice is not an effective way to influence an election. One would need to get a lot of people involved for it to work
- Vote buying still occurs and, in some cases, it is hard to distinguish between intimidation and vote buying.
- Tampering with ballots in transit between poll and election office is a concern (AR)

Voter Registration:

- Some assert that registration fraud is the major issue (esp unsupervised voter registration drives by political parties and advocacy groups that pay workers to register voters)
- Some assert that various groups abuse the existence of list deadwood to make claims about fraudulent voting.
- Some assert that when compiling such lists and doing comparisons, which are used as the basis for challenges, sound statistical methods must be utilized, and often are not. Matching protocols without faulty assumptions will have a 4 percent to 35 percent error rate—that's simply the nature of database work. Private industry has been working on improving this for years.
- If someone is on a voter list twice, that does not mean that voter has voted twice.
- Many problems will be addressed by the statewide database required under HAVA

Enforcement:

- States vary in their authority to intervene in and track voter intimidation-voter suppression and voting fraud cases (e.g.: in AR, enforcement is the responsibility of counties, in IN it is responsibility of State AG).
- Voter fraud and intimidation is difficult to prove. It is very hard to collect the necessary factual evidence to make a case, and doing so is very labor-intensive
- Some believe that voter suppression matters are not pursued formally because often they involve activities that current law does not reach.
- Only two interviewees assert that current state and federal codes seem sufficient for prosecuting fraud, and are not under-enforced (no need for additional laws).
- Some advocacy groups assert that the government does not engage in a sustained investigation of voter suppression matters or pursue any kind of resolution to them. There is a perception that the Department of Justice has never been very aggressive in pursuing cases of vote suppression, intimidation and fraud, and that choices DOJ has made with respect to where they have brought claims do not seem to be based on any systematic analysis of where the biggest problems are.
- Some advocates point out that, once the election is over, civil litigation becomes moot.

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SUMMARY OF INFO FROM INTERVIEWS
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

- The development of a pre-election challenge list targeted at minorities (some claim this has never been pursued, yet Mr. Tanner said the DOJ was able to informally intervene in challenger situations in Florida, Atkinson County, Georgia and in Alabama), long lines due to unequal distribution of voting machines based on race, list purges based on race, unequal application of voter ID rules, and refusal to offer a provisional ballot on the basis of race would be VRA violations.
- DOJ asserts there is a big gap between complaints and what can be substantiated
- DOJ Voting Rights Section - Federal Voting Rights Act only applies to state action, so the section only sues State and local governments – it does not have any enforcement power over individuals. Most often, the section enters into consent agreements with governments that focus on poll worker training, takes steps to restructure how polls are run, and deals with problems on Election Day on the spot. When deciding what to do with the complaint, the section errs on the side of referring it criminally because they do not want civil litigation to complicate a possible criminal case
- DOJ Election Crimes Branch – DOJ is permitted to prosecute whenever there is a candidate for federal office, but can't prosecute everything. Deceptive practices that are committed by individuals and would be a matter for the Public Integrity Section; local government would have to be involved for the voting section to become involved. The problem is asserting federal jurisdiction in non-federal elections. (In U.S. v. McNally, the court ruled that the mail fraud statute does not apply to election fraud. It was through the mail fraud statute that the department had routinely gotten federal jurisdiction over election fraud cases. 18 USC 1346, the congressional effort to "fix" McNally, did not include voter fraud.)
- It is preferable for the federal government to pursue these cases for the following reasons:
 - federal districts draw from a bigger and more diverse jury pool;
 - the DOJ is politically detached; local district attorneys are hamstrung by the need to be re-elected;
 - DOJ has more resources – local prosecutors need to focus on personal and property crimes---fraud cases are too big and too complex for them;
 - DOJ can use the grand jury process as a discovery technique and to test the strength of the case.
- Some assert that election crimes are not high on the priority list of either district attorneys or grand juries; therefore, complaints of election crime very rarely are prosecuted or are indicted by the grand jury.
- Political parties have devoted extraordinary resources into 'smoking out' fraudulent voters

Recommendations Re Laws & Procedures:

- It is important to keep clear who the perpetrators of the fraud are and where the fraud occurs because that effects what the remedy should be.
- Support Senator Barak Obama's bill for combating voter harassment and deceptive practices. (Many jurisdictions do not currently have laws prohibiting voter harassment and deceptive practices.)
- Support a new law that allows the DOJ to bring civil actions for suppression that are not race based, for example, deceptive practices or wholesale challenges to voters in jurisdictions that tend to vote heavily for one party.
- Support a new federal law that allows federal prosecution whenever a federal instrumentality is used, e.g. the mail, federal funding, interstate commerce (DOJ has drafted such legislation, which was introduced but not passed in the early 1990s.)
- Put stronger teeth in the voter fraud laws; step up enforcement against fraud and provide stiffer penalties as current penalties make the risk of committing fraud relatively low
- There should be increased resources dedicated to expanded DOJ monitoring efforts. This might be the best use of resources since monitors and observers act as a deterrent to fraud and intimidation.
- Some advocate that all election fraud and intimidation complaints should be referred to the State Attorney General's Office to circumvent the problem of local political prosecutions. The

SUMMARY OF INFO FROM INTERVIEWS
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

Attorney General should take more responsibility for complaints of fraud because at the local level, politics interferes

- Some advocate greater resources for district attorneys. In addition, during election time, there should be an attorney in the DA's office who is designated to handle election prosecution
- Would be useful to have recommendations for prosecutors investigating fraudulent activity
- Better trained poll workers
- Polling places should be open longer, run more professionally but there needs to be fewer of them so that they are staffed by only the best, most professional people (Voting Centers).
- Move elections to weekends. This would involve more people acting as poll workers who would be much more careful about what was going on.
- A day should be given off of work without counting as a vacation day so that better poll workers are available.
- Early voting at the clerk's office is good because the people there know what they are doing. People would be unlikely to commit fraud at the clerk's office. This should be expanded to other polling places in addition to that of the county clerk.
- Many assert that the best defense against fraud will be better voter lists.
 - States should be urged to implement statewide voter lists in accordance with the Help America Vote Act ("HAVA"), the election reform law enacted by Congress in 2002 following the Florida debacle
 - Linking voter registration databases across states may be a way to see if people who are registered twice are in fact voting twice
 - New legislation or regulations are needed to provide clear guidance and standards for generating voter lists and purging voters, otherwise states could wrongfully disenfranchise eligible voters; purging must be done in a manner that uses the best databases, and looks at only the most relevant information
 - The process for preventing ineligible ex-felons from casting ballots needs to be improved
 - statewide registration databases should be linked to social service agency databases
- Challenge laws need to be reformed, especially ones that allow for pre-election mass challenges with no real basis. There is no one size fits all model for challenger legislation, but some bad models involving hurdles for voters lead to abuse and should be reformed. There should be room for poll workers to challenge fraudulent voters, but not for abuse. (KY has list of defined reasons for which they can challenge a voter, such as residency, and the challengers must also fill out paperwork to conduct a challenge) Last minute challenges should not be permitted
- False information campaigns should be combated with greater voter education, the media could do more to provide information about what is legal and what is illegal
- Improve the protective zone around polling places: the further vote suppressers can keep people away from the polls, the better.
- States should be encouraged to:
 - codify into law uniform and clear published standards for voter registration, challenges, voter ID, poll worker training, use and counting of provisional votes, the distribution of voting equipment and the assignment of official pollworkers among precincts, to ensure adequate and nondiscriminatory access
 - standardize forms
 - modify forms and procedures based on feedback from prosecutors
- Ensure good security procedures for the tabulation process and more transparency in the vote counting process
- Conduct post-election audits
- Many advocate eliminating "no excuse" absentee voting.
- Some recommend reducing partisanship in election administration, but others are skeptical of the feasibility of this

SUMMARY OF INFO FROM INTERVIEWS
PRELIMINARY VOTING FRAUD-VOTER INTIMIDATION STUDY

- Some strongly recommend requiring voter ID, while others strongly oppose it as a voter suppression tactic, asserting that states should not adopt requirements that voters show identification at the polls, beyond those already required by federal law (requiring that identification be shown only by first time voters who did not show identification when registering.) and that states could use signature comparisons.
- Political parties should monitor the processing of voter registrations and purging of registered by local election authorities on an ongoing basis to ensure the timely processing of registrations and changes, including both newly registered voters and voters who move within a jurisdiction or the state, and the Party should ask state Attorneys General to take action where necessary to force the timely updating of voter lists or to challenge, unlawful purges and other improper list maintenance practices.

Future Study Recommendations:

- Just because there was no prosecution, does not mean there was no vote fraud; very hard to come up with a measure of voter fraud short of prosecution
- EAC should conduct a survey of the general public that asks whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data
- EAC should work with the Census Bureau to have them ask different, additional questions in their Voter Population Surveys
- EAC should talk to private election lawyers

August 2005

CURRICULUM VITAE

NAME: Chandler Davidson

TITLE: Research Professor,
Department of Sociology,
Radoslav Tsanoff Professor
of Public Policy Emeritus

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PHONE NUMBERS: 713-348-3490
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DATE OF BIRTH: 13 May 1936

EDUCATION: University of Texas B.A. 1961
Princeton University M.A. 1966
Princeton University Ph.D. 1969

MILITARY SERVICE: U.S. Navy (Honorable Discharge, 1962)

TEACHING EXPERIENCE:
1966-1968 Instructor, Rice University
1968-1973 Assistant Professor, Rice University
1973-1983 Associate Professor with tenure, Rice University
1983-2003 Professor, Rice University
2003- Professor Emeritus, Research Professor

HONORS:
Senior Honors Program, Dept. of Philosophy, University of Texas, 1960-61
Undergraduate Philosophy Scholarship, University of Texas, 1960-61

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Phi Beta Kappa, University of Texas, 1961
Fulbright Scholar, University of Poitiers, Faculté des Lettres, 1961-62
Woodrow Wilson Fellow, Princeton University, 1963-64
Brown College (Rice University), Teaching Excellence Award in the Humanities
1969-70
Outstanding Texas author, 1972, Theta Sigma Phi, Austin Professional Chapter
of Women in Communications (award given for Biracial Politics).
Research Fellow, National Endowment for the Humanities, 1976-77
Rice University Provost Lecturer, 1985
Controversies in Minority Voting, co-edited with Bernard Grofman, chosen as an
Outstanding Book on Human Rights in the United States by the Gustavus
Myers Center for the Study of Human Rights, 1993
Quiet Revolution in the South, co-edited with Bernard Grofman, chosen as the
winner of the Richard F. Fenno Prize awarded annually by the Legislative
Studies section of the American Political Science Association for the best book
in legislative studies published in the previous year, 1995
Ally Award, Center for the Healing of Racism (Houston), 1996
George R. Brown Award for Superior Teaching, Rice University, 1997, 1999,
2000, 2002
George R. Brown Award for Excellence in Teaching, Rice University, 1998
Philosophical Society of Texas, 1998-
Minority Vote Dilution named to Howard University Press Classic Editions
Library Series, 2004

ADVISORY PANELS, COMMISSIONS

Voting Rights Research Advisory Board, University of California, Berkeley, 2004-
National Commission on the Voting Rights Act, 2005-

BIOGRAPHICAL ENTRIES:

Who's Who in America
Who's Who in The Southwest
Who's Who in American Education

JOINT APPOINTMENTS:

Professor, Department of Political Science, Rice University (1997-2003)

PROFESSIONAL ACTIVITIES AND MEMBERSHIPS:

American Political Science Association
American Association of University Professors
Advisory Committee, Democracy, Diversity, and Voice (The Democracy
Collaborative, University of Maryland)

SELECTED ADMINISTRATIVE SERVICE:

- 1973-75 Chair, University Library Committee
- 1977-78 President, Rice Chapter, American Association of University Professors
- 1979-83 Chair, Department of Sociology
- 1986-89 Chair, Department of Sociology
- 1987-88 Chair, Rice Task Force on Substance Abuse
- 1988 Chair, Search Committee, Director of Office of Minority Affairs
- 1988-90 Co-founder and first coordinator of interdisciplinary teaching team for "Intellectual Foundations of the Social Sciences," core curriculum course
- 1993-96 Chair, Committee on Undergraduate Admission
- 1995-2003 Chair, Department of Sociology
- 1997 Chair, President's Ad Hoc Committee to Revise Faculty Dismissal Policy
- 1999-00 Chair, Committee on Teaching
- 1998-02 Chair, Inter-institutional Search Committee, University of Texas School of Public Health and Rice University Department of Sociology
- 2002-03 Chair, Athletic Subcommittee of Faculty Council

AREAS OF SCHOLARLY ACTIVITY:

- Politics and Society
- Social Stratification
- Race and Ethnic Relations
- Electoral Behavior
- Texas Politics
- Minority Voting Rights

EXTERNAL RESEARCH SUPPORT:

- National Endowment for the Humanities, full salary support for the year (1976-77)
- National Science Foundation, \$231,331 grant, "Collaborative Research on the Implementation and Effects of the 1965 Voting Rights Act," co-principal investigator with Bernard Grofman, University of California at Irvine (1988-92)
- National Science Foundation Law and Social Sciences Program, \$8,500 grant, "Supplementary Grant for Collaborative Research on the Voting Rights Act: The Effects of Changing Electoral Systems on the Election of Women" (NSF SES #88-09329), co-principal investigator with Bernard Grofman and Susan Welch (1989-90).
- Rockefeller Foundation, \$50,000 grant, "A Conference on the Voting Rights Act: A Twenty-five Year Perspective," with Thomas Mann and Bernard Grofman, under the auspices of the Brookings Institution (1989-90).

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Ford Foundation, \$6,000 grant. "Newspaper Data Base on 1990s Redistricting," Bernard Grofman, principal investigator (1991-93).

CONGRESSIONAL TESTIMONY

"Prepared statement of Chandler Davidson, Chair, Department of Sociology, Rice University, Houston, Tex." Voting Rights Act: Hearings before the Subcommittee on the Constitution of the Committee on the Judiciary, United States Senate (Volume 2), Serial No. J-97-92; Washington, D.C.: U.S. Government Printing Office, 1983, pp. 293-303.

"Voting Rights Roundtable," Subcommittee on Civil and Constitutional Rights, Judiciary Committee, U.S. House of Representatives, May 25, 1994, invited participant.

U. S. SUPREME COURT CITATIONS OF PUBLICATIONS

Thornburg v. Gingles, 478 U.S. 30, 106 S. Ct. 2752 (1986).

Shaw v. Reno, 509 U.S. 630, 113 S. Ct. 2816 (1993).

Johnson v. De Grandy, 512 U.S. 997, 114 S. Ct. 2647 (1994).

Miller v. Johnson, 515 U.S. 900, 115 S. Ct. 2475 (1995).

Bush v. Vera, 517 U.S. 952, 116 S. Ct. 1941 (1996).

Shaw v. Hunt, 517 U.S. 899, 116 S. Ct. 1896 (1996).

Abrams v. Johnson, 521 U.S. 74, 117 S. Ct. 1925 (1997).

PUBLICATIONS:

I. Intended Primarily for a Professional Audience

Books:

Biracial Politics: Conflict and Coalition in the Metropolitan South, Louisiana State University Press, 1972.

Minority Vote Dilution (editor), Howard University Press, 1984 (paperback ed., 1989).

Race and Class in Texas Politics, Princeton University Press, 1990 (paperback ed. 1992).

Controversies in Minority Voting: The Voting Rights Act in Perspective (ed. with Bernard Grofman), The Brookings Institution, 1992 (hardcover and paperback).

Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990 (ed. with Bernard Grofman), Princeton University Press, 1994 (hardcover and paperback).

Commissioned Reports:

Republican Ballot Security Programs: Vote Protection or Minority Vote Suppression—or Both?. in co-authorship with Tanya Dunlap, Gale Kenny,

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and Benjamin Wise, Center for Voting Rights and Protection, Washington, D.C. (2004).

Articles and Book Chapters:

- "A Summer Enrichment Program for Black Pre-Medical students," in co-authorship with Daniel Creson, M.D., Texas Reports on Biology and Medicine, 29 (1971), 443-50.
- "Houston Elects a Mayor," in co-authorship with Douglas Longshore, New South: A Quarterly Journal of Southern Affairs, 27 (1972), 47-61.
- "Ethnic Attitudes as a Basis for Minority Cooperation in a Southwestern Metropolis," in co-authorship with Charles Gaitz, Social Science Quarterly, 22 (1974), 738-48.
- "Are the Poor Different?", in co-authorship with Charles Gaitz, Social Problems, 22 (1974), 230-45.
- "Variations in Gender Roles Among Classes," in co-authorship with Virginia Davidson, M.D., Sex Roles: A Journal of Research, 3 (1977), 459-67.
- "At-Large Elections and Minority Representation," Social Science Quarterly, 60 (1979), 337-38.
- "The Effects of At-Large Elections on Minority Representation: A Review of Historical and Recent Evidence," in co-authorship with George Korbel, Journal of Politics, 43 (1981), 982-1005.
- "Reforming a Reform," in Merle Black and John Shelton Reed (eds.), Perspectives on the American South, London, New York, Paris: Gordon and Breach Science Publishers, 1981, 143-49.
- "Houston: The City Where the Business of Government is Business," in Wendell Bedichek and Neal Tannahill (eds.), Public Policy in Texas, Glenview, Ill.: Scott, Foresman and Company, 1982, 275-88.
- "The Democrats," in Wendell Bedichek and Neal Tannahill (eds.), Public Policy in Texas, Glenview, Ill.: Scott, Foresman and Company, 1982, 160-70.
- "Carter Wesley," in Rayford Logan and Jeremy Townsend (eds.), The Dictionary of American Negro Biography, New York and London: W. W. Norton and Company, 1983, 639-40.
- "Minority Vote Dilution: An Overview," in Chandler Davidson (ed.), Minority Vote Dilution, Washington, D.C.: Howard University Press, 1984, 1-23.
- "Nonpartisan Slating Groups in an At-Large Setting," in co-authorship with Luis Fraga, in Chandler Davidson, Minority Vote Dilution, Washington, D.C.: Howard University Press, 1984, 119-43.
- "Ethnic Jokes: An Introduction to Race and Nationality," Teaching Sociology, 15 (1987), 296-302.
- "Slating Groups as Parties in a 'Nonpartisan' Setting," in co-authorship with Luis Fraga, Western Political Quarterly, 41 (1988), 373-90.
- "The Voting Rights Act: A Brief History," in Grofman and Davidson (eds.), Controversies in Minority Voting (1992), 7-51.

- "Postscript: What is the Best Route to a Color-Blind Society?", with B. Grofman, in Grofman and Davidson (eds.), Controversies in Minority Voting (1992), 300-17.
- "The Voting Rights Act: Protecting the Rights of Racial and Language Minorities in the Electoral Process" (Introduction to special issue of journal on the Voting Rights Act), Chicano-Latino Law Review, 13 (1993), 1-14.
- "Editors' Introduction" (in co-authorship with B. Grofman), in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 3-17.
- "The Recent Evolution of Voting Rights Law Affecting Racial and Language Minorities," in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 21-37.
- "Texas" (with R. Brischetto, D. Richards, and B. Grofman), in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 233-70.
- "The Effect of Municipal Election Structure on Black Representation in Eight Southern States," (with B. Grofman) in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 301-34.
- "The Voting Rights Act and the Second Reconstruction" (with B. Grofman) in Davidson and Grofman (eds.), Quiet Revolution in the South (1994), 378-87.
- "African Americans and Politics," The New Handbook of Texas (1996). Vol. 1, 51-55.
- "Voting Rights Act of 1965 and its Amendments," in Leonard W. Levy and Kenneth L. Karst, eds. Supplement II, Encyclopedia of the American Constitution, 2d. ed. (2000) 2813-14.
- "Race and Voting," in Leonard W. Levy and Kenneth L. Karst, eds., Supplement II, Encyclopedia of the American Constitution, 2d. ed. (2000) 2093-94.
- "White Gerrymandering of Black Voters: A Response to Professor Everett," North Carolina Law Review 79 (2001), 1333-43.

Work in Preparation:

Report commissioned by the Lawyers Committee for Civil Rights Under Law (Washington, D.C.) on the status of minority voting rights since the last extension of the non-permanent features of the Voting Rights Act.

II. Intended Primarily for a General Audience

Articles:

- "The Oil Patch," Harper's (August, 1964), 41-46.
- "Our 'Dirty War' in Vietnam," The Nation (November 2, 1964), 299-303.
- "A Case for Busing," The Texas Observer (July 16, 1971), 12-14.
- "Stalking the White Working Class," Dissent (Fall, 1972), 595-601.
- "Reply to Professor Lipset," Dissent (Winter, 1973), 128.
- "Wonder Bread and Hog Jowls: New Politics in the Old South," Dissent (September 29, 1974), 269-72.
- "The Texans' and Other Myths," The Texas Observer (June 18, 1976), 3-5.

- "The Culture of Shiftlessness," Dissent (Fall, 1976), 349-56.
- "A Night of Violence," The Texas Observer (September 9, 1977), 19-21.
- "Women and Minorities at Large," Houston Breakthrough (October, 1977), 1, 31.
- "Interview with Billie Carr," Houston Breakthrough (April, 1978), 1.
- "The Privileged Ones," The Texas Observer (June 9, 1978) 16-19.
- "Of That Time, of This Place," The Texas Observer (Twenty-Fifth Anniversary Edition) (December 28, 1979), 60-73.
- "In Texas, Electoral Changes," New York Times, Op-Ed Essay, (February 23, 1980).
- "A Painfully Narrow Set of Options," The Texas Observer (October 17, 1980), 3-14.
- "Beware No-pass, No-Play Red Herrings," Houston Post, Op-Ed Essay (June 3, 1985), B3.
- "Numbers Behind the Numbers in Black Progress," Houston Post, Op-Ed Essay (March 14, 1987), B3.
- "Texas judges can be elected without diluting ethnic vote," Houston Post, Op-Ed Essay (December 3, 1989), C3.
- "Lack of knowledge may top list of reasons babies are dying here," Houston Post (September 15, 1991), C-3 (with Victoria Soto).
- "The Color Line Reconsidered" (review essay of three books: Arthur Ashe, Days of Grace; John Hope Franklin, The Color Line; and Cornel West, Race Matters), The Texas Observer, (September 17, 1993), pp. 18-19.
- "Affirmative Action in Undergraduate Admissions: The Experience at Rice," Reconstruction 2 (1994), 45-54.
- "Voting Rights and the Second Reconstruction: the Rocky Road to the Present . . . and Beyond." Southern Changes, 16 (Winter 1994), 4-7.
- "Affirmative Action in Undergraduate Admissions: The Experience at Rice," Sallyport: The Magazine of Rice University, 52 (Winter 1996), 18-25.
- "Minority Representation in Congress: Reply to Professor Swain" (with Bernard Grofman), Chronicle of Higher Education (November 8, 1996).
- "Vouchers Only Serve to Balkanize Schools," Houston Chronicle Op-Ed Essay (April 21, 1999)

SELECTED PROFESSIONAL ACTIVITIES:

- "An Introduction to Sociology," ten-week seminar for resident psychiatrists, The University of Texas Medical Branch, Galveston, 1971.
- Invited response to two papers, Southern Historical Association annual meeting, Atlanta, 1974.
- "Roundtable on Peace Education: Regional Experiences and Resources," Southwestern Social Science Association annual meeting, San Antonio, 1975.
- "The Culture of Poverty and the Culture of Wealth," paper, Southwestern Social Science Association annual meeting, Dallas, 1976.

- Charter member, Board of Directors, Houston Metropolitan Research Center, Houston Public Library, 1977.
- "The Influence of Money on Elections: The Texas Case," jointly authored paper, Southwestern Social Science Association annual meetings, Dallas, 1977.
- "The Struggle for Control of the Democratic Party in Texas," paper, Eastern Sociological Association annual meeting, New York City, 1976.
- "The Mobilization of Bias in Houston City Politics," co-authored paper, Southwestern Social Science Association annual meeting, Houston, 1978.
- "The Political Economy of Contemporary Public Policy," Symposium participant, Department of Government, The University of Texas at Austin, 1978.
- Invited response to two papers, Southern Historical Association annual meeting, Atlanta, 1979.
- "Increasing Opportunities for Political Participation," invited panelist, Texas Advisory Committee to the U.S. Commission on Civil Rights, San Antonio, 1979.
- "A Model of Contemporary Houston Politics," paper, Social Sciences Faculty, Houston Community College, 1980.
- "At-Large Elections and Minority-Group Representation," co-authored paper, Texas Southern University Conference on Afro-American Studies, Houston, 1981.
- "At-Large Election Systems and the Dilution of the Black Vote: Historians as Expert Witnesses," panelist, Social Science History Association annual meeting, Nashville, 1981.
- "Minority Politics and Political Cultures," panelist, Southwestern Social Science Association annual meeting, San Antonio, 1982.
- "Continuity and Change in a Sunbelt City: Perspectives on Houston and Survey Research in the 1980s," panel chair, Southeastern Sociological Association Annual Meetings, Houston, 1983.
- "The Social Scientist as Expert Witness," panelist, Southwestern Political Science Association annual meetings, Houston, 1983.
- "Minority Vote Dilution," panel chair, Southern Political Science Association Annual Meeting, Birmingham, 1983.
- "Power, Influence, and Public Policy in Houston," panelist, Southwestern Political Science Association annual meeting, Houston, 1985.
- "Nonpartisan Slating Groups and Minority Representation," paper, American Political Science Association annual meeting, New Orleans, 1985.
- "Partisans in Sheep's Clothing: The Ambiguous Legacy of Municipal Reform," Rice University Provost's Lecture Series, 1985.
- "The Impact of the Voting Rights Act of 1965," co-organizer (with Bernard Grofman) planning conference, Rice University, 1988.
- "Municipal and Special District Elections," panelist, Southwestern Political Science Association annual meetings, 1988.

- "V. O. Key's Vision of Texas Politics," presentation , symposium on "The World of Texas Politics," sponsored by The Houston Post and the LBJ School of Public Affairs, Houston, 1988.
- "Texas Politics," invited panelist, Lee College Symposium on "Texas Politics in Transition," Baytown, 1988
- "Race and Class in Texas Politics," paper, Conference on Social Class, University of Kansas, 1989.
- "Race and Class in Texas Politics," paper, American Sociological Association, San Francisco, 1989.
- "The Impact of the Voting Rights Act," panel chair, American Political Science Association, Atlanta, 1989.
- "The Voting and Campaign Process," panel moderator, Symposium on Democracy in the 1990s: Voting in the United States, Lyndon Baines Johnson School of Public Affairs, Austin, 1990.
- "The Voting Rights Act and the Transformation of Urban Politics," panel chair, Western Political Science Association, Seattle, March 1991.
- "What is Election Discrimination? Argument and Proof in Voting Rights Cases," panelist, American Association of Black Political Scientists annual meeting, Houston, March 1992.
- "Recent Controversies over The Voting Rights Act," invited lecture, Seminar on Voting Rights, University of San Francisco School of Law, San Francisco, March 1992.
- "1990s Redistricting," panelist, Western Political Science Association annual meeting, San Francisco, March 1992.
- "Regulating the Electoral Process," invited panelist, Texas Law Review Symposium, University of Texas Law School, Austin, Texas, 1992.
- "The Impact of the Voting Rights Act in the South: The First Twenty-five Years," invited panelist, Southern Regional Council Voting Rights Conference, Atlanta, 1993.
- "Voting Rights After Shaw v. Reno," invited panelist, American Political Science Association annual meeting, New York City, 1994.
- "Response to Gary Orfield," invited panelist on "Educational Policy," Conference on the Impact of the Civil Rights Act of 1964, National Judicial Center, Washington, D.C., 1994.
- "Diversity and Democracy: Creating the Common Good," invited paper, 75th Anniversary of the Southern Regional Council, Atlanta, 1994.
- "The Voting Rights Act: The Accomplishments." Panel moderator, Conference on the Voting Rights Act, Thurgood Marshall School of Law, Texas Southern University, 1995.
- "Voting Rights in the Wake of Recent Supreme Court Decisions," panel moderator, American Political Science Association annual meeting, Chicago, 1995.
- "The Media and the Quiet Revolution: Public Opinion and Voting Rights," invited paper, Conference on "The Voting Rights After Thirty Years," co-sponsored

- by the Southern Regional Council and the Lawyers Committee for Civil Rights Under Law, New Orleans, 1995.
- "Mechanisms of Ethnic/Racial Conflict Resolution," invited panelist, "E Pluribus Unum" conference, Stanford University, 1996.
- "Tenth Anniversary Roundtable on Voting Rights Issues," invited panelist, The Citadel Symposium on Southern Politics, Charleston, March 7-8, 1996.
- "The Rise of Racial Gerrymandering in Texas," invited public lecture, Lamar University, Beaumont, March 25, 1997.
- "Contemporary Districting Challenges and Opportunities," invited panelist, conference on "Geographic Information Systems and Political Redistricting," National Center for Geographic Information and Analysis, SUNY at Buffalo, Oct. 26, 1997.
- "Perspectives on the 2000 Redistricting," invited panelist, Joint Center for Political and Economic Studies, Washington, D.C. , July 9, 1998.
- "Author Meets Critics," invited panelist responding to Morgan Kousser's Color Blind Injustice, Southern Sociological Society, Nashville, April 9, 1999.
- "Race and Redistricting," invited paper, Conference on "African Americans: Research and Policy Perspectives at the Turn of the Century," Stanford University, November 11-13, 1999.
- "And Then You Are Sued: Examining the Role of the U.S. Department of Justice and the Federal Courts in the Fifth Wave of Redistricting Since the Passage of the Voting Rights Act," invited chair, Conference on "Power Shift: Redrawing America's Political Boundaries After the 2000 Elections and Census," University of Houston Center for Public Policy, December 8, 2000.
- "White Gerrymandering of Black Voters: A Response to Professor Everett," invited paper, "Democracy in a New America: A Symposium," sponsored by the University of North Carolina Law Review, Chapel Hill, February 2001.
- "Urban Disfranchisement," invited organizer and chair, plenary session of American Sociological Association annual meeting, Anaheim, California, August 20, 2001.
- "Author Meets Critics: S.M. Lipset and Gary Marks's Why There is No Socialism in the United States," organizer of panel, American Sociological Association annual meeting, Anaheim, California, August 18-21, 2001.
- Invited participant, "The Future of the Voting Rights Act," a conference at Columbia University, September 20-21, 2003.
- Invited participant, "Protecting Democracy: Defining the Research Agenda for the 2007 Voting Rights Act Reauthorization," Harvard Civil Rights Project, Harvard University, May 9-12, 2004.
- Invited participant, "Protecting Our Voices: The Significance of the Voting Rights Act," June 17-18, 2004, Washington, D.C. (sponsored by the Mexican American Legal Defense Fund, the Lawyers Committee for Civil Rights Under Law, and the NAACP Legal Defense Fund.)

Invited participant, "One Nation with Many Voices," conference on the Voting Rights Act and minority language provisions, Arizona State University, Phoenix, April 6, 2005.

Invited panelist, "Lessons From the Past, Prospects for the Future: Honoring the 40th Anniversary of the Voting Rights Act of 1965," Yale University, April 21-23, 2005.

Invited panelist, "Past and Prologue," National Conference Commemorating the 40th Anniversary of the Voting Rights Act of 1965" (Sponsored by the Lawyers Committee for Civil Rights, LDF, MALDEF, ACLU, and Native American Rights Fund), July 25-26, 2005, Washington, D.C.

CONSULTING:

- 1971 Sparks v. Griffin, U.S. District Court, Marshall, Texas. Expert witness for plaintiffs, black school teachers who were fired when Upshur Independent School District was required to desegregate.
- 1973-74 USA v. Griggs, U.S. District Court, Gainesville, Florida. Consultant to defendants in their efforts to demonstrate that the jury selection procedure in Florida was unfair.
- 1973-74 Sabala v. Western Gillette, Inc. and Ramirez v. Western Gillette, Inc., U.S. District Court, Houston, Texas (Case Nos. 71-H-961 and 71-H-1336). Consultant to plaintiffs in class-action employment discrimination suit.
- 1975-76 Greater Houston Civic Council v. Mann, U.S. District Court, Houston (Case No. 73-H-1650). Expert witness for plaintiffs, who alleged minority vote dilution as a result of the City of Houston's at-large election system.
- 1978 Three-judge panel, U.S. District Court, Houston. Expert witness for plaintiffs-intervenors attempting to enjoin the City of Houston from holding elections until it complied with Section 5 pre-clearance requirements of the Voting Rights Act.
- 1979-80 Whitfield v. City of Taylor, Texas U.S. District Court, Austin, Texas (Case No. A-79-CA-0015). Consultant to plaintiffs, who alleged unconstitutional dilution of their vote.
- 1979-83 Jones v. City of Lubbock, Texas, U.S. Court of Appeals, Fifth Circuit, Unit A (No. 79-2744). Consultant and expert witness for plaintiffs-appellants, who alleged unconstitutional dilution of their votes.

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- 1979-86 Velasquez v. City of Abilene, Texas, U.S. District Court, Abilene (Case No. CA-1-80-57). Consultant and expert witness for plaintiffs, who alleged unconstitutional dilution of their votes.
- 1980 City of Port Arthur, Texas v. United States of America, U.S. District Court for the District of Columbia (Case No. 80-064P). Expert witness for USA, who contended that a consolidation election by the city illegally diluted the votes of minorities under the Voting Rights Act.
- 1980-81 Oxford Place Welfare Rights Organization v. Jerome Chapman, U.S. District Court, Houston (Case No. 79-H-1283). Consultant to plaintiffs, welfare recipients who alleged that long delays in receipt of their welfare payments were unconstitutional.
- 1981 At the request of the Legal Aid Society of Central Texas, analyzed voting data for the City of Austin, Texas, relevant to a preclearance submission the city made to the Justice Department under the Voting Rights Act.
- 1981 Brown v. Board of School Commissioners of Mobile County, U.S. District Court, Mobile, Alabama (Case No. CV-75-298-P). Expert witness for USA, intervenors in the rehearing of a vote-dilution suit, remanded by the Supreme Court.
- 1981 Bolden v. City of Mobile, U.S. District Court, Mobile, Alabama (Case No. 75-297-P). Expert witness for plaintiffs in the rehearing of a vote-dilution case, remanded by the Supreme Court.
- 1981 Walton v. Henson, U.S. District Court, Paris, Texas (Case No. P-80-39-CA). Expert witness for plaintiffs, who alleged unconstitutional dilution of their votes.
- 1981 Seaman v. Upham. Three-judge panel, U.S. District Court, Austin, Texas (Case No. P-81-49-CA). Expert witness for plaintiffs, who alleged unconstitutional dilution of their votes.
- 1982 Texas v. Martin, 104th District Court of Taylor County, Texas. Consultant to defendant, Dee Dee Martin, indicted on capital murder charges, who claimed the jury selection system discriminated against blacks.
- 1982 Harris v. City of Hopewell, Virginia, U.S. District Court, Richmond, Virginia (Case No. 82-0036-R). Consultant to plaintiffs, who claimed unconstitutional dilution of their votes.

- 1983-84 Kirksey v. Danks, Mayor of Jackson, Mississippi, U.S. District Court, Jackson (Civil Action No. J83-0077-C). Expert witness for plaintiffs, who claimed dilution of their votes under Section 2 of the Voting Rights Act.
- 1985 Sumbry v. Russell County, Alabama. Consultant to plaintiffs, who claimed dilution of their voting strength under Section 2 of the Voting Rights Act.
- 1985 Lee County Branch of the NAACP v. City of Opelika, Alabama, (Case No. 83-7275). Consultant to plaintiffs, who claimed dilution of their voting strength under Section 2 of the Voting Rights Act.
- 1985 Tallahassee NAACP v. Leon County, Florida. Consultant to plaintiffs alleging dilution of their votes in county commission elections.
- 1985 Harris v. Graddick, U.S. District Court, Birmingham (C.A. No. 84-T-595-N). Expert witness for plaintiffs alleging that the state of Alabama employed a system for appointing poll officials that denied blacks equal access to the political process.
- 1985-86 LULAC v. Midland Independent School District, U.S. District Court, Midland, Texas (MO-85-CA-001). Expert witness for plaintiffs alleging vote dilution.
- 1985-86 United States of America v. Dallas County (Alabama) Commission, U.S. District Court, Selma (C.A. No. 78-578-H). Expert witness for U.S.A. in case alleging the dilution of minority votes in Dallas County.
- 1986-87 Martin v. Allain, Governor of Mississippi, U.S. District Court, Jackson (C.A. No. J84-0708 (W)) Expert witness for plaintiffs alleging vote dilution.
- 1985-87 McNeil v. City of Springfield, U.S. District Court, Springfield, Ill. (C.A. No. 85-2365). Expert witness for plaintiffs alleging minority vote dilution.
- 1987 Martin v. Allain (see above) consolidated with Kirksey v. Allain, U.S. District Court, Jackson (C.A. No. J85-0960 (W)). Expert witness for plaintiffs.
- 1987 Metropolitan Pittsburgh Crusade for Votes v. City of Pittsburgh (C.A. No. 86-173). Consultant to plaintiffs alleging vote dilution.
- 1988-89 Badillo v. City of Stockton, California (C.A. No. 87-1726 U.S. District Court, Eastern District of California). Consultant to plaintiffs alleging vote dilution.
- 1988-89 Russell Yarbrough v. City of Birmingham, Alabama (C.A. No. CV87-PT-1947-S). Consultant to defendants, a racially-mixed city council elected at large in a system white plaintiffs claimed diluted their votes.

- 1988-89 League of United Latin American Citizens (LULAC) v. Clements, U.S. District Court, Western District of Texas (No. 88-CA-154) Consultant to plaintiffs alleging vote dilution in multi-member district state judicial elections.
- 1994 Vera v. Richards, U.S. District Court, Southern District of Texas (C.A. No. H-94-0227). Expert for State of Texas, which was alleged to have violated the U.S. Constitution in creating majority-minority districts in the 1990s round of congressional redistricting.
- 2004 Center for Voting Rights and Protection, Inc.. Washington, D.C. Director of research on ballot security programs as instruments of minority vote suppression.
- 2004- Lawyers Committee for Civil Rights Under Law, Washington, D.C. Director of research on the status of minority voting rights in the U.S.; member, National Commission on the Voting Rights Act.

REFERENCES

Bernard Grofman

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CRAIG DONSANTO MEETING
CRIMINAL DIVISION, PUBLIC INTEGRITY SECTION, US DEPARTMENT OF
JUSTICE

January 13, 2006

Tova Wang's notes

Other contacts:

Cynthia Mitchell, 202-305-4932

Noel Hillman, Chief of Division

We will be receiving by mail the new handbook, the draft mail fraud legislation and the Ballot Access and Voting Integrity Symposia training materials

I. Process and Structure:

- Mr. Donsanto must approve all investigations that go beyond a preliminary stage, all charges, search warrant applications and subpoenas. If a charge seems political, he will reject it. If there is still a dispute, it may be reviewed by the assistant attorney general. Often the department will not bring a case, but will rather refer it to a different law enforcement agency or the voting section.
- Often, a defendant who gets a target letter will ask for a departmental hearing. The defendant's case will be heard by Mr. Donsanto and Ms. Hillman. On occasion, the assistant attorney general will review the case. The department grants such hearings easily because such defendants are likely to provide information about others involved.
- The Department has held four symposia for DEOs and FBI agents since the initiation of the Ballot Access and Voting Integrity Initiative. In 2003, civil rights leaders were invited to make speeches, but were not permitted to take part in the rest of the symposium. All other symposia have been closed to the public. (Peg will be sending us the complete training materials used at those sessions. These are confidential and are the subject of FOIA litigation).
- There are two types of attorneys in the division
 - Prosecutors, who take on cases when the jurisdiction of the section requires it; the US Attorney has recused him or herself; or when the US Attorney is unable to handle the case (most frequent reason)
 - Braintrust attorneys

II. Cases:

Mr. Donsanto provided us with three case lists:

- Open cases (still being investigated) as of January 13, 2006 – confidential
- Election fraud prosecutions and convictions as a result of the Ballot Access and Voting Integrity Initiative October 2002-January 13, 2006
- Cases closed for lack of evidence as of January 13, 2006

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If we want more documents related to any case, we must get those documents from the states. The department will not release them to us.

Although the number of election fraud related complaints have not gone up since 2002, nor has the proportion of legitimate to illegitimate complaints of fraud, *the number of cases that the department is investigating and the number of indictments the department is pursuing are both up dramatically.* {Future query: Is this similarly true in the voting section?}

Since 2002, the department has brought more cases against “alien voters,” felon voters, and double voters than ever before. Previously, cases were only brought when there was a pattern or scheme to corrupt the process. Charges were not brought against individuals – those cases went un-prosecuted.

This change in direction, focus, and level of aggression was by the decision of the Attorney General. The reason for the change was for deterrence purposes.

The department is currently undertaking three pilot projects to determine what works in developing the cases and obtaining convictions; what works with juries in such matters to gain convictions:

1. Felon voters in Milwaukee
2. Alien voters in the Southern District of Florida
 - a. FYI – under 18 USC 611, to prosecute for “alien voting” there is no intent requirement. Conviction can lead to deportation. Nonetheless, the department feels compelled to look at mitigating factors such as was the alien told it was OK to vote, does the alien have a spouse that is a citizen.
3. Double voters in a variety of jurisdictions

The department does not maintain records of the complaints that come in from DEOs, U.S attorneys and others during the election that are not pursued by the department. Mr. Donsanto asserted that U.S. attorneys never initiate frivolous investigations.

III. Process for Making Prosecution Decisions:

Mere suspicion of a crime is insufficient. The division needs enough evidence to suggest a crime to go forward. Much depends on the type of matter and the source. Mr. Donsanto said he “knows it when he sees it.” They will only indict if they are confident of a conviction assuming the worst case scenario – a jury trial.

Political considerations, such as whether the state has a one party system or the party in power controls the means of prosecution and suppresses minority complaints are factors in the decision. Before, the department would leave it to the states. Now, if there is racial animus involved in the case, there is political bias involved, or the prosecutor is not impartial, the department will take it over.

Racial animus is an “aggravating factor” that would lead the department to be more likely to take over the case. This is also because in such a case there is likely to be more federal law involved.

According to the new handbook, the department can take on a case whenever there is a federal candidate on the ballot

IV. Recommendations for Improvements

- Since most fraud takes place in local elections, it needs to be easier to assert federal jurisdiction in non-federal elections. It is preferable for the federal government to pursue these cases for the following reasons:
 - It draws from a bigger and more diverse jury pool
 - The Feds are politically detached
 - Local district attorneys are hamstrung by the need to be re-elected
 - The Feds have more resources – local prosecutors need to focus on personal and property crimes, fraud cases are too big and too complex for them
 - The Feds can use the grand jury process as a discovery technique and to test the strength of the case

In *U.S. v. McNally*, the court ruled that the mail fraud statute does not apply to election fraud. It was through the mail fraud statute that the department had routinely gotten federal jurisdiction over election fraud cases. 18 USC 1346, the congressional effort to “fix” the decision in the McNally case, did not include voter fraud.

As a result, the department needs a new federal law that allows federal prosecution whenever a federal instrumentality is used, e.g. the mail, federal funding, interstate commerce. The department has drafted such legislation, which was introduced but not passed in the early 1990s.

LORRAINE CAROL MINNITE

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EDUCATION

The Graduate School and University Center of the City University of New York

Ph.D. in Political Science, 2000

Dissertation: "Identity, Voting Rights and the Remapping of Political Representation in New York City"

Honors: Distinction

M.Phil. in Political Science, 1994

Major field: American Politics

Minor field: Public Policy

M.A. in Political Science, 1992

Master's Thesis: "The Ecology of the Underclass: William Julius Wilson and the Chicago School"

Boston University, College of Liberal Arts

B.A. in History, 1983

Area of Concentration: American Civilization

Honors: Cum Laude

ACADEMIC EXPERIENCE

Assistant Professor

Barnard College, Columbia University, January 2000 to present.

Teach undergraduate courses in American politics and urban studies.

Associate Director

The Center for Urban Research and Policy, Columbia University, December 1993 to 2000.

Responsible for the day-to-day management of the Center; wrote grant proposals and helped secure funding from government and private sources for all activities totaling nearly \$2,000,000.

Instructor and Research Associate

Metropolitan Studies Department, New York University, Spring 1991.

Designed and taught a core course for undergraduates on the political and economic development of post-war American cities.

Assistant Program Director

Borough of Manhattan Community College, City University of New York, 1987 to 1990.

Assisted the Director in all administrative aspects of the BMCC Summer Immersion Program, a non-traditional, intensive, remedial education program.

Research Assistant and Data Analyst

CUNY Data Service, The Graduate School, City University of New York, 1987 to 1991.

Programmed and analyzed large data sets from the 1980 STF and PUMS (microdata) Census files, and the New York City Housing and Vacancy Surveys.

Research Assistant

Department of Political Science, The Graduate School, City University of New York, 1985 to 1987.

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OTHER EMPLOYMENT

Issues Director

The Committee for David N. Dinkins, II, New York City, 1991 to 1993.

Conducted research for Mayor David N. Dinkins' campaign committee on a wide range of public policy issues and problems facing New York City.

Campaign Manager

McCabe for City Council, Brooklyn, New York, 1991.

Organized and administered the successful campaign for the Democratic Party nomination and the New York City Council seat in the 38th Council District.

Union Organizer

District 65/UAW, (AFL-CIO), Northeast Regional Office, Boston, Massachusetts, 1984 to 1985, Summer 1986.

Participated in the planning and implementation of a union organizing campaign; served as editor of union local's newsletter; assisted negotiating committee in contract negotiations.

ACADEMIC AND PROFESSIONAL HONORS

Faculty Fellow, Institute for Social and Economic Research and Policy, Columbia University, 2002-to present

Member, Working Group on New York's Recovery from 9-11, Russell Sage Foundation, 2002 to 2005

Curriculum Development Award, Barnard Project on Diaspora and Migration, 2000

CUNY Graduate School Dissertation Year Fellowship, 1996-1997

CUNY Graduate Assistantship, 1987-1991

Boston University Student Scholarship, 1979-1983 (Dean's List)

PROFESSIONAL AFFILIATIONS

American Political Science Association

American Sociological Association

Law and Society Association

Urban Affairs Association

COURSES

Taught at Barnard College

American Urban Politics

Contemporary Urban Problems and Solutions

Dynamics of American Politics

Independent Study in American Politics

Political Participation and Democracy

Senior Research Seminar in American Politics

Urban Myths and the American City

Taught at New York University

The Crisis of the Modern American City

Graduate Committees

Examiner, CUNY Graduate Center Ph.D. Program in Political Science, Dissertation Committee, Antoinette Pole, April 2005.

Examiner, Columbia University Ph.D. Program in Political Science, Dissertation Committee, David Park, December 2003

Examiner, CUNY Graduate Center Ph.D. Program in Political Science, Oral Doctoral Exam, John Flateau, December 2000.

Examiner, Columbia University Ph.D. Program in Political Science, Dissertation Committee, Natasha Hritzuk, May 2000

PUBLICATIONS

Journal Articles

"Model Assumptions, and Model Checking in Ecological Regressions," *Journal of the Royal Statistical Society* 164, Part 1 (2001): 101-118; co-authored with Andrew Gelman, David K. Park, Stephen Ansolabehere, and Phillip N. Price.

Book Chapters

"Outside the Circle: The Impact of Post-9/11 Responses on the Immigrant Communities of New York City," in John H. Mollenkopf, ed., *The Politics of the 9/11 Recovery Effort in New York City*, New York: Russell Sage Foundation, *forthcoming*.

"Between Anglo and Black: Asian and Latina/o Political Participation in New York City," in William E. Nelson and Jessica Perez-Monforti, eds., *Black and Latino/a Political Development in the United States*, Miami: Barnhardt and Ash, *in press*; co-authored with John Mollenkopf.

"Environmental Risk and Childhood Disease in an Urban Working Class Caribbean Neighborhood," in Barbara Deutsch Lynch and Sherrie L. Bayer, eds., *Caribbean Environmental Issues: Beyond Sun and Sand*, New Brunswick, NJ: Rutgers University Press, *in press*; co-authored with Immanuel Ness.

"The Changing Arab New York Community," in Kathleen Benson and Philip M. Kayal, eds., *A Community of Many Worlds: Arab Americans in New York City*, Syracuse: Syracuse University Press, 2002; co-authored with Louis Abdellatif Cristillo.

"Social Capital, Political Participation and the Urban Community," in Susan Saegert, J. Phillip Thompson, and Mark Warren, eds., *Social Capital and Poor Communities*, New York: Russell Sage Foundation, 2001; co-authored with Ester R. Fuchs and Robert Y. Shapiro.

"The Political Incorporation of Immigrants in New York," in *In Defense of the Alien: Proceedings of the 23rd Annual National Legal Conference on Immigration and Refugee Policy*, New York: Center for Migration Studies, 2001; co-authored with Jennifer Holdaway and Ronald Hayduk.

"The Working Families Party," in Immanuel Ness, ed. *The Encyclopedia of American Third Parties*, Armonk, New York: M.E. Sharpe, Inc., 2000.

"Patterns of Neighborhood Change," in John H. Mollenkopf and Manuel Castells, eds., *Dual City: Restructuring New York*, New York: Russell Sage, 1991; co-authored with Frank F. DeGiovanni.

Book Reviews

Governing From Below: Urban Regions and the Global Economy by Jefferey M. Sellers, Cambridge University Press, 2002, in *Political Science Quarterly* Vol. 118, No. 4 (Winter 2003-2004).

Social Class, Politics, and Urban Markets: The Makings of Bias in Policy Outcomes by Herman L. Boschken, Stanford, CA: Stanford University Press, 2002, in *The International Journal of Urban and Regional Research*, Vol. 27, No. 4 (December 2003).

The Miami Fiscal Crisis: Can a Poor City Regain Prosperity? by Milan J. Dluhy and Howard A. Frank, Westport, Connecticut: Praeger Publishers, 2002, in *Political Science Quarterly* Vol. 117, No. 4 (Winter 2002-2003).

Research Reports

Securing the Vote: An Analysis of Election Fraud, New York: Demos, A Network for Ideas and Action, 2003; co-authored with David Callahan.

Journalism

"Albany's Making Bad Elections Worse," *New York Daily News*, New York, August 22, 2004.

UNPUBLISHED PAPERS, PRESENTATIONS AND REPORTS

Conference Participation, Papers and Presentations

"Immigrant Politics in an Age of Terror," paper presented at the 101st Annual Meeting of the American Political Science Association, Washington, D.C., September 1 – September 4, 2005.

Panel Discussant, "Immigrants As Local Political Actors," 100th Annual Meeting of the American Political Science Association, Chicago, September 1–4, 2004.

Invited Lecturer, "Literature of Immigration," New Jersey Council for the Humanities Teacher Institute, Monmouth University, Long Branch, New Jersey, August 5, 2004.

"The Impact of 9/11 on Immigrant Politics in New York, With a Focus on Arab, Muslim, and South Asian Immigrant Communities," Columbia University Seminar on the City, New York City, March 23, 2004.

Invited Participant, "The Impact of Post-9/11 Immigration and Law Enforcement Policies," The Century Foundation, New York City, February 4, 2004.

Workshop Participant, Multi-race Study Group, *Harvard CAPS Workshop on Methodologies to Study Immigrant Political Incorporation*, Harvard University, Cambridge, October 30-31, 2003.

Invited Lecturer, "Literature of Immigration," New Jersey Council for the Humanities Teacher Institute, Monmouth University, Long Branch, New Jersey, July 10, 2003.

Panelist, "Rebuilding Post-War Iraq: Domestic and International Implications;" Community Forum, Barnard College, New York City, April 21, 2003.

"Political Participation and the Neglected Role of Spatial Form;" paper presented at the 33rd Annual Meeting of the Urban Affairs Association, Cleveland, Ohio, March 27-30, 2003.

Invited Speaker, "Teach-In on Iraq;" Barnard College, New York City, November 8, 2002.

Panelist, "Colloquium on Responding to Violence," in honor of Virginia C. Gildersleeve Lecturer, Jody Williams, Barnard Center for Research on Women, Barnard College, New York City, October 25, 2002.

Panel Moderator, "Who is Brooklyn?" at *The Future of Brooklyn* Conference, Brooklyn College, June 7, 2002.

"Asian and Latino Participation in New York City: The 2000 Presidential Election," co-authored with John H. Mollenkopf; paper presented at the 97th Annual Meeting of the American Political Science Association, San Francisco, August 29 – September 2, 2001.

Organizer and Panelist, *The Changing Face of New York's Electorate: The Immigrant Vote in 2000 and Beyond*, A Panel Discussion and Media Briefing sponsored by the New York Immigration Coalition and Barnard College, New York City, May 2, 2001.

Organizer and Panelist, *The Muslim Communities in New York City Project; A One-Day Conference*, sponsored by the Center for Urban Research and Policy and the Middle East Institute at the School of International and Public Affairs, Columbia University, New York City, April 30, 2001.

Panelist, *Democratizing New York City; Reimagining City Government*, sponsored by the Center for Humanities, CUNY Graduate Center, New York City, March 27, 2001.

Organizer and Panel Moderator, *Independent Politics in A Global World*, sponsored by the Independent Politics Group, CUNY Graduate Center, New York City, October 6-7, 2000.

"Political Capital and Political Participation," co-authored with Ester R. Fuchs and Robert Y. Shapiro; paper presented at the 96th Annual Meeting of the American Political Science Association, Washington, D.C., August 31 – September 3, 2000.

"The Political Participation of Immigrants in New York," at *Immigrant Political Participation in New York City: A One-Day Working Conference*, sponsored by the Center for Urban Research/CUNY and the International Center for Migration, Ethnicity, and Citizenship, New York City, June 16, 2000

"The Muslim Community in New York City Project," with Louis Abdellatif Cristillo; *Muslims in New York: An Educational Program for Religious Leaders in New York City*, seminar on faith traditions in New York; sponsored by the Interfaith Center of New York and the Imans Council of New York, New York City, June 14, 2000.

"The Political Participation of Immigrants in New York," Session VI on "Integration of Immigrants and Their Descendants," Center for Migration Studies 23rd Annual National Legal Conference on Immigration and Refugee Policy, Washington, D.C., March 30-31, 2000.

"The Changing Arab New York Community," with Louis Abdellatif Cristillo; *A Community of Many Worlds: Arab Americans in New York City*, symposium sponsored by the Museum of the City of New York, New York City, February 5-6, 2000.

"Model Assumptions, and Model Checking in Ecological Regressions," co-authored with Andrew Gelman, Stephen Ansolabehere, Phillip N. Price and David K. Park; paper presented at the Royal Statistical Society conference on the Analysis and Interpretation of Disease Clusters and Ecological Studies, London, December 16-17, 1999.

"The Political Incorporation of Immigrants in New York," co-authored with Jennifer Holdaway and Ronald Hayduk; paper presented at the 95th Annual Meeting of the American Political Science Association, Atlanta, September 1-4, 1999.

"Political Capital and Political Participation," co-authored with Ester R. Fuchs and Robert Y. Shapiro; paper presented at the 58th Annual Meeting of the Midwest Political Science Association, Chicago, April 15-17, 1999.

"Racial and Ethnic and Urban/Suburban Differences in Public Opinion and Policy Priorities," co-authored with Ester R. Fuchs, Robert Y. Shapiro, and Gustavo Cano; paper presented at the 58th Annual Meeting of the Midwest Political Science Association, Chicago, April 15-17, 1999.

"The Importance of Full Disclosure of Nonresponse Due to Refusals and the Nature of Potential Bias in Phone Surveys," with Robert Y. Shapiro, evening workshop presentation to the New York City chapter of the American Association for Public Opinion Research, New York City, March 9, 1999.

"White, Black and Latino Voter Turnout in the 1993 New York City Mayoral Election: A Comparison of Ecological Regression Techniques and Exit Poll Data," co-authored with David K. Park and Daniel M. Slotwiner; paper presented at the 94th Annual Meeting of the American Political Science Association, Boston, September 4, 1998.

Panel Discussant, "Race, Rights, and American Politics;" panel at the 27th Annual Meeting of the Northeastern Political Science Association and International Studies Association-Northeast, Newark, New Jersey, November 9-11, 1995.

"Assessing the Quality of Political Reform: Redistricting and the Case of New York City," paper presented at the Annual Meeting of the New York State Political Science Association, Albany, New York, April 22, 1994.

Research Reports

The Myth of Voter Fraud, A Report to Demos: A Network for Action and Ideas, May 2002.

Evaluation of the New York Immigration Coalition's '200,000 in 2000: New Americans Pledging to Strengthen Democracy and New York' Initiative, Final Report to the New York Foundation, with John H. Mollenkopf, August 2001.

A Study of Attitudes Among Low-Income Parents Toward Environmental Health Risks and Childhood Disease: The Brooklyn College COPC Survey, with Immanuel Ness, June 2001.

Political Participation and Political Representation in New York City; With a Special Focus on Latino New Yorkers, Report of the Columbia University/Hispanic Education and Legal Fund Opinion Research Project, co-authored with Ester R. Fuchs and Robert Y. Shapiro, December 1997.

RESEARCH GRANTS

Prior Grants

Principal Investigator, "2002 New Americans Exit Poll," December 2002 to March 2003 (\$1,800). Funded by the Faculty Research Fund of Barnard College.

Principal Investigator, "Evaluation of the New York Immigration Coalition's '200,000 in 2000' Campaign," July 2000 to July 2001 (\$40,000). Barnard College, Columbia University. Funded by the New York Foundation.

Co-Principal Investigator, "Muslim Communities in New York City," July 1998 to July 2001 (\$350,000). The Center for Urban Research and Policy, Columbia University. Funded by the Ford Foundation.

Co-Principal Investigator, "New York State and City Public Opinion Research Project," May 1997 to November 1998 (\$100,000). The Center for Urban Research and Policy, Columbia University. Funded by Local 1199, National Health and Human Services Employees Union, AFL-CIO.

Active Grants

Recipient, Special Assistant Professor Leave Travel Grant, September 2003 to September 2005 (\$7,700). Funded by the Provost's Office, Winston Fund, Barnard College.

Recipient, Conference Grant, September 2003 to September 2005 (\$3,000). Funded by the Provost's Office, Forman Fund, Barnard College.

Member, Working Group on New York's Recovery from September 11th, June 2002 to June 2005 (\$30,000). Funded by the Russell Sage Foundation.

SERVICE

College and University

Member, Medalist Committee, Barnard College, 2004-2005.

Member, Columbia University Seminar in Political and Social Thought, 2004 to present.

Faculty Mentor, Francene Rodgers Scholarship Program, Barnard College, Summer 2004.

Panel Moderator, "Governance by the Media: Feminists and the Coming Election," at the Twenty-ninth Annual The Scholar and the Feminist Conference, Barnard College, New York City, April 3, 2004.

Member, Ph.D. Subcommittee in Urban Planning, Columbia University School of Architecture, Planning and Preservation, 2003 to present.

Member, Columbia University Seminar on Globalization, Labor, and Popular Struggles, 2001 to present.

Member, Columbia University Seminar on the City, 2001 to present.

Faculty Mentor, Columbia University Graduate School of Arts and Sciences Summer Research Program, 2001.

Advisory Board Member, Center for Research on Women, 2000 to present.

First Year Adviser, Barnard College, 2000 to 2004.

One-Year Replacement Member, Committee on Programs and Academic Standing, Barnard College, 2000-2001.

Professional

Editorial Board Member, , *Working USA: The Journal of Labor and Society*, 2004 to present.

Manuscript Reviewer, *Working USA: The Journal of Labor and Society*, 2004 to present.

Manuscript Reviewer, *Urban Affairs Review*, 2004.

Manuscript Reviewer, *Political Science Quarterly*, 2004.

Grant Reviewer, Research Award Program, The City University of New York, 2003.

Manuscript Reviewer, *American Political Science Review*, 2001.

Member, New York Colloquium on American Political Development, 2001 to present.

Community

Speaker, "The Immigrant Voter in New York City," New York Voter Assistance Commission, New York City, May 19, 2005.

Speaker, "The Immigrant Voter in New York City," Citizens Union, New York City, May 18, 2005.

Speaker, "The Immigrant Voter in New York City," New York Immigration Coalition, New York City, February 17, 2005.

Speaker, "The Immigrant Voter in New York City," New York City Central Labor Council, New York City, April 28, 2004.

Speaker, "The Post-9/11 Crackdown on Immigrants," Coney Island Avenue Project, Brooklyn, New York, March 25, 2004.

Volunteer, *New York Immigration Coalition*, Voter Registration at INS Naturalization Ceremonies, 1998 to present.

CONSULTANTSHIPS

Brennan Center for Justice at New York University School of Law, 2004-2005.

Provided expert report on voter fraud and testified as a fact witness in *ACORN, et al. v. Bysiewicz* (Civil Action No. 3:04-CV-1624 (MRK)).

Howard Samuels State Management and Policy Center, Graduate School and University Center of CUNY, 2002.

Consulted on survey design for a project on the efficacy of community-based organizations.

Demos, New York, New York, 2001 to 2002.

Researched and wrote a study of voter fraud in contemporary American politics.

1199 Child Care Fund, New York, New York, 2000 to 2002.

Prepare demographic data for Fund-eligible union members and their children.

Brooklyn College, Brooklyn, New York, 1998 to 2000.

Developed survey instrument and devised sampling strategy to measure respondents' knowledge of relationships between indoor and outdoor environmental risks, and childhood disease.

National Association of Social Workers, New York City Chapter, 1998.

Designed survey instrument and analyzed findings of a survey of the organization's membership.

Primary Care Development Corporation, New York, New York, 1997 to 2002.

Developed project maps for this organization, which builds health care clinics in New York City.

Service Employees International Union, AFL-CIO, Washington, D.C., 1997.

Prepared tables for a report from raw data collected for a political opinion survey.

Committee to Elect Sal F. Albanese, New York, New York, 1997.

Wrote economic development position paper and consulted on campaign strategy for Democratic mayoral primary candidate.

1199 National Health and Human Service Employees Union, AFL-CIO, New York, New York, 1996 to 1997.

Advised the Political Action Director on the development of a political action plan for union members; advised on the management of the union's telecommunications center.

New York City Districting Commission, March to June 1991.

Assisted individuals and organizations gain access to Census and electoral data, construct viable plans for new City Council districts, and operate the public access computer provided by the Commission.

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Lorraine C. Minnite

has taught American and urban politics at Barnard College, Columbia University, since January 2000. Prior to that she was the Associate Director of the Center for Urban Research and Policy at Columbia's School of International and Public Affairs. Her research is concerned with issues of equality, social and racial justice, political conflict and institutional change. Dr. Minnite has consulted with various labor, advocacy, and governmental organizations, and political campaigns which relied on her expertise in public policy and demographic patterns in New York City. An experienced survey researcher, she has published on various aspects of political participation, voting behavior and urban politics, among other things. Currently, she is working on a book on the contemporary immigrant rights movement in the U.S.

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List of Experts Interviewed

Wade Henderson, Executive Director, Leadership Conference for Civil Rights

Wendy Weiser, Deputy Director, Democracy Program, The Brennan Center

William Groth, attorney for the plaintiffs in the Indiana voter identification litigation

Lori Minnite, Barnard College, Columbia University

Neil Bradley, ACLU Voting Rights Project

Nina Perales, Counsel, Mexican American Legal Defense and Education Fund

Pat Rogers, attorney, New Mexico

Rebecca Vigil-Giron, Secretary of State, New Mexico

Sarah Ball Johnson, Executive Director of the State Board of Elections, Kentucky

Stephen Ansolobhere, Massachusetts Institute of Technology

Chandler Davidson, Rice University

Tracey Campbell, author, *Deliver the Vote*

Douglas Webber, Assistant Attorney General, Indiana, (defendant in the Indiana voter identification litigation)

Heather Dawn Thompson, Director of Government Relations, National Congress of American Indians

Jason Torchinsky, Assistant General Counsel, American Center for Voting Rights

Robin DeJarnette, Executive Director, American Center for Voting Rights

Joseph Rich, former Director of the Voting Section, Civil Rights Division, U.S. Department of Justice

Joseph Sandler, Counsel to the Democratic National Committee

John Ravitz, Executive Director, New York City Board of Elections

John Tanner, Director, Voting Section, Civil Rights Division, U.S. Department of Justice

Kevin Kennedy, Executive Director of the State Board of Elections, Wisconsin

Evelyn Stratton, Justice, Supreme Court of Ohio

Tony Sirvello, Executive Director, International Association of
Clerks, Recorders, Election Officials and Treasurers

Harry Van Sickle, Commissioner of Elections, Pennsylvania

Craig Donsanto, Director, Public Integrity Section, U.S. Department of Justice

Sharon Priest, former Secretary of State, Arkansas

Biographical Sketch

R. Michael Alvarez, Ph.D.
Professor of Political Science
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California Institute of Technology
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<http://www.hss.caltech.edu/rma/home.html>
626-395-4422

R. Michael Alvarez was selected by *Scientific American* magazine to be on the 2004 "Scientific American 50" for his outstanding scientific and technological contributions to help improve the U.S. voting system. He has taught political science at Caltech since December 1992. He received his B.A. in political science in 1986 from Carleton College; he received his M.A. and Ph.D. from Duke University in 1990 and 1992, respectively. Alvarez was named an Associate Professor in April 1995, received tenure in June 1997, and was promoted to Professor in March 2002. Alvarez has focused most of his research and teaching on the study of electoral politics in the United States. His first book, *Information and Elections*, was published in the spring of 1997: This project examined the question of how much American voters know about presidential candidates and how they obtain that information. His second book, *Hard Choices, Easy Answers* (with John Brehm), is a study of American public opinion about divisive social and political issues. His recent book (published January 2004), *Point, Click, and Vote: The Future of Internet Voting* (with Thad E. Hall), published by Brookings Institution Press, examines the controversies swirling around the Internet voting in the United States. He has also published many articles on electoral behavior and public opinion in the United States and other advanced industrial democratic nations.

Alvarez has received a number of honors and grants for his work. He was named the "Emerging Scholar" by the American Political Science Association's Voting Behavior and Public Opinion Section in 2002. He was a John M. Olin Faculty Fellow (1994-95) as well as a John Randolph Haynes and Dora Haynes Faculty Fellow (1994, 1997, 1999, 2002). Alvarez received the Sprague Award with John Brehm for their work on public opinion, and the Durr Award with Jonathan Nagler for their work on modeling elections. Also, Alvarez has received financial support for his research from the National Science Foundation, The IBM Corporation, the Carnegie Corporation of New York, and the Knight Foundation. Alvarez edits the Analytical Methods for Social Research book series and is on the editorial boards of a number of academic journals: American Journal of Political Science, American Politics Quarterly, Election Law Journal, Political Behavior, The Journal of Politics and Political Research Quarterly. He was the editor of *The Political Methodologist*, 1993-96.

Professor Alvarez is Co-Director of the Caltech-MIT Voting Technology Project, researching technological solutions to electoral problems, and is the Principal Investigator of the "Secure Electronic Registration and Voting Experiment" Evaluation. He has been an expert witness in a series of recent court cases, including California's defense of the blanket primary (California Democratic Party v. Jones), Bradley v. Compton, and Cano v. Davis. He has testified before a number of organizations, including the U.S. Senate. He was an outside consultant for Knight Ridder on their 2000 Hispanic Voter Poll, and in 2004 is a consultant to Greenberg, Quinlan, Rosner Research Inc. in their research on the Hispanic electorate. Alvarez is a frequent guest on Pasadena's National Public Radio affiliate, KPCC-FM, and writes opinion pieces for local newspapers. He has been interviewed for National Public Radio, Jim Lehrer's NewsHour, CNN, ABC, NBC News, and for many state, national and international newspapers.

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Curriculum Vitae Ramon Michael Alvarez

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Academic Background

Professor of Political Science with tenure, California Institute of Technology, February 2002 to present.

Associate Professor of Political Science with tenure, California Institute of Technology, June 1997 to February 2002.

Associate Professor of Political Science, California Institute of Technology, April 1995 to June 1997.

Assistant Professor of Political Science, California Institute of Technology, December 1992 to April 1995.

Robert S. Rankin Instructor of American Politics, Duke University, 1991-1992.

Duke University, Ph.D., December 1992 (Political Science). M.A., with distinction on Ph.D. Preliminary Examination, May 1990, (Political Science).

Carleton College, B.A., *magna cum laude*, 1986 (Political Science).

Grants and Fellowships

Carnegie Corporation of New York, "Electronic Elections", 2005-2006, Co-principal Investigator, (\$50,000).

IBM Center for The Business of Government, "Database Integration for Election Administration", 2004-2005, Co-principal Investigator, (\$15,000).

John S. and James L. Knight Foundation, "Internet and Electronic Voting", 2003 – 2006, Co-principal Investigator, (\$650,000).

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U.S. Department of Defense, "Evaluation of the Secure Electronic Registration and Voting (SERVE) Project", November 2002 – December 2005, Principal Investigator, (\$1,700,000).

Carnegie Corporation, "Internet Voting", 2003 – 2005, Co-principal Investigator, (\$273,000).

U.S. Department of Defense, "Evaluation of the Secure Electronic Registration and Voting (SERVE) Project", DASW01-02-C-0027, (\$236,140), Principal Investigator.

John Randolph Haynes and Dora Haynes Foundation Faculty Fellowship, 2002. Project title: "California's Voting Systems", May 2002 – October 2002, (\$10,000).

Carnegie Corporation, Project title: "MIT-Caltech Voting Technology Initiative", 2000 – 2001, Co-principal Investigator, (\$450,000).

USC-Caltech Center for the Study of Law and Politics, Associate Director, 2000 (\$150,000) 2001 (\$150,000), 2002 (\$150,000).

USC Center for Law, Communications, and Public Policy, "Manufacturing a Gender Gap", 1999, Co-principal Investigator (\$8,500).

John Randolph Haynes and Dora Haynes Foundation Faculty Fellowship, Project title: "An Experiment in Democracy: The Blanket Primary in California", 1999, (\$8,000).

National Science Foundation, Project title: "Issues and Economics in Multiparty Elections", 1997-99, Co-principal Investigator, (\$85,000).

IBM University Equipment Matching Grants Program, 1998, (\$25,000).

John Randolph Haynes and Dora Haynes Foundation Faculty Fellowship, Project title: "Who Governs Southern California: Will the Rise of Latino Political Power Continue?" 1997, (\$8,000).

IBM University Equipment Grants Program, Project title: "Individuals and Aggregates: New Computational Techniques for Resolving Ecological Relationships", 1996 – 97, Co-principal Investigator, (\$134,000).

John M. Olin Faculty Fellowship, 1994 – 95, (\$45,000).

John Randolph Haynes and Dora Haynes Foundation Faculty Fellowship, Project title: "Information in State-Level Political Campaigns: An Examination of the 1994 Senate and Gubernatorial Races in California", 1994, (\$8,000).

Duke Endowment Fellow, 1987 – 89.

Professional Honors

Named and recognized by *Scientific American* magazine for outstanding acts of leadership in science and technology as a Policy Leader in the computing category of the 2004 "Scientific American 50".

Emerging Scholar Award, Elections, Public Opinion, and Voting Behavior Section of the American Political Science Association, for the top scholar within ten years of Ph.D. receipt in the field, 2002.

Robert H. Durr Award for the best paper applying quantitative methods to a substantive problem in political science at the 1997 Annual Meeting of the Midwest Political Science Association.

Sprague Award for the best paper applying quantitative methods to a substantive problem in political science at the 1995 Annual Meeting of the Midwest Political Science Association.

Brooks/Cole Award for the best paper written by a graduate student in the 1991 Annual Meeting of the Midwest Political Science Association.

Distinction in the Department of Political Science, Carleton College, 1986, awarded for thesis titled *Latin American Revolutions: Going Beyond Skocpol*.

Publications

Books

Electronic Elections. With Thad E. Hall. Princeton University Press, forthcoming 2006.

Point, Click and Vote. With Thad E. Hall. Brookings Institution Press, 2004.

Hard Choices, Easy Answers. With John Brehm. Princeton University Press, 2002.

Information and Elections. Revised Edition. University of Michigan Press, 1998.

Information and Elections. University of Michigan Press, 1997.

Journal Articles

"Strategic Voting in British Elections." With Fred Boehmke and Jonathan Nagler. *Electoral Studies*, forthcoming.

"A Natural Experiment of Race-Based and Issue Voting: The 2001 City of Los Angeles Elections." With Marisa A. Abrajano and Jonathan Nagler. *Political Research Quarterly*, forthcoming.

"Voting Behavior and the Electoral Context of Government Formation: The 1994 Dutch Parliamentary Election and the 'Purple Coalition'." With Garrett Glasgow. *Electoral Studies*, forthcoming.

"Web-Based Surveys." With Carla VanBeselaere. *Encyclopedia of Social Measurement*, Vol. 3, 2005, 955-962.

"Studying Elections: Data Quality and Pitfalls in Measuring the Effects of Voting Technologies." With Stephen Ansolabehere and Charles Stewart III. *Policy Studies Journal*, Vol. 33, No. 1 (February 2005), 15-24.

- "Latinos, Anglos, Voters, Candidates, and Voting Rights." With Jonathan Nagler. *University of Pennsylvania Law Review*. Vol. 153, No. 1 (November 2004), 393-432.
- "Party System Compactness: Measurement and Consequences." With Jonathan Nagler. *Political Analysis*, Vol. 12, No. 1 (Winter 2004), 46-62.
- "The Race Gap in Student Achievement Scores: Longitudinal Evidence from a Racially Diverse Environment." With Valentina Bali, *Policy Studies Journal*, Vol. 32, No. 3 (August 2004), 393-416.
- "The Revolution Against Affirmative Action in California: Politics, Economics, and Proposition 209." With Lisa García Bedolla. *State Politics and Policy Quarterly*, Vol. 4, No. 1 (Spring 2004), 1-17.
- "Who Overvotes, Who Undervotes, Using Punchcards? Evidence from Los Angeles County." With Betsy Sinclair. *Political Research Quarterly*, Vol. 57, No. 1 (March 2004), 15-25.
- "The Complexity of the California Recall Election." With Melanie Goodrich, Thad E. Hall, D. Roderick Kiewiet, and Sarah M. Sled. *PSOnline*, (www.apsanet.org), January 2004.
- "Schools and Educational Outcomes: What Causes the "Race Gap" in Student Test Scores?" With Valentina A. Bali. *Social Science Quarterly*, September 2003, vol. 84, no. 3, 485-507.
- "Are There Sex Differences in Fiscal Political Preferences?" With Edward J. McCaffery. *Political Research Quarterly*, March 2003, vol. 56, no. 1, 5-17.
- "The Foundations of Latino Voter Partisanship: Evidence from the 2000 Election." With Lisa García Bedolla. *Journal of Politics*, February 2003, vol. 65, no. 1, 31-49.
- "Subject Acquisition for Web-Based Surveys." With Robert Sherman and Carla VanBeselaere. *Political Analysis*, vol. II, no. 1, Winter 2003.
- "The Likely Consequences of Internet Voting for Political Representation." With Jonathan Nagler. *Loyola Law Review*, April 2001, vol. 34, no. 3, 1115-1153.
- "Issues, Economics and the Dynamics of Multi-Party Elections: The British 1987 General Election." With Jonathan Nagler and Shaun Bowler. *American Political Science Review*, March 2000, vol. 94, no. 1, 131-150.
- "The Resurgence of Nativism in California? The Case of Proposition 187 and Illegal Immigration." With Tara Butterfield. *Social Science Quarterly*, March 2000, vol. 81, no. 1, 167-179.
- "Two-Stage Estimation of Non-Recursive Choice Models." With Garrett Glasgow. *Political Analysis*, Spring 2000, vol. 8, no. 2, 147-166.
- "Measuring the Relative Impact of Issues and the Economy in Democratic Elections." With Jennifer Niemann and Jonathan Nagler. *Electoral Studies*, June-September, 2000, vol. 19, no. 2-3, 237-253.
- "A New Approach for Modeling Strategic Voting in Multiparty Elections." With Jonathan Nagler. *British Journal of Political Science*, January 2000, vol. 30, no. 1, 57-75.

- "Uncertainty and Candidate Personality Traits." With Garrett Glasgow. *American Politics Quarterly*, January 2000, vol. 28, no. 1, 26-49.
- "Citizenship and Political Representation in Contemporary California." With Tara L. Butterfield. *Pacific Historical Review*, May 1999, vol. 68, no. 2, 293-308.
- "Explaining the Gender Gap in U.S. Presidential Elections, 1980-1992." With Carole Chaney and Jonathan Nagler. *Political Research Quarterly*, June 1998, vol. 51, no. 2, 311-339.
- "Speaking in Two Voices: American Equivocation about the Internal Revenue Service." With John Brehm. *American Journal of Political Science*, April 1998, vol. 42, no. 2, 418-452.
- "Economics, Entitlements and Social Issues: Voter Choice in the 1996 Presidential Election." With Jonathan Nagler. *American Journal of Political Science*, October 1998, vol. 42, no. 4, 1349-1363.
- "When Politics and Models Collide: Estimating Models of Multicandidate Elections." With Jonathan Nagler. *American Journal of Political Science*, January 1998, vol. 42, no. 1, 55-96.
- "Deficits, Democrats, and Distributive Benefits: Congressional Elections and the Pork Barrel in the 1980s." With Jason Saving. *Political Research Quarterly*, December 1997, vol. 50, no. 4, 809-832.
- "Congressional Committees and the Political Economy of Federal Outlays." With Jason Saving. *Public Choice*, August 1997, vol. 92, no. 1-2, 55-73.
- "Are Americans Ambivalent Towards Racial Policies?" With John Brehm. *American Journal of Political Science*, April 1997, vol. 40, no. 2, 345-374.
- "Constituents and Legislators: Learning About the Persian Gulf War Resolution." With Paul W. Gronke. *Legislative Studies Quarterly*, February 1996, vol. 21, no. 1, 105-127.
- "American Ambivalence Towards Abortion Policy: Development of a Heteroskedastic Probit Model of Competing Values." With John Brehm. *American Journal of Political Science*, November 1995, vol. 39, no. 4, 1055-1082.
- "Voter Choice in 1992: Economics, Issues and Anger." With Jonathan Nagler. *American Journal of Political Science*, August 1995, vol. 39, no. 3, 714-744.
- "Issues and the Presidential Primary Voter." With John Aldrich. *Political Behavior*, September 1994, vol. 16, no. 3, 289-317.
- "Uncertainty and Political Perceptions." With Charles Franklin. *Journal of Politics*, August 1994, vol. 56, no. 4, 671-689.
- "Government Partisanship, Labor Organizations and Macroeconomic Performance, A Corrigendum." With Nathaniel Beck, Jonathan N. Katz, Geoffrey Garrett, and Peter Lange. *American Political Science Review*, December 1993, vol. 87, no. 4, 945-948.
- "Policy Moderation or Conflicting Expectations: Testing the Intentional Models of Ticket-Splitting." With Matthew M. Schousen. *American Politics Quarterly*, October 1993, vol. 21, no. 4, 410-438.

"Government Partisanship, Labor Organization and Macroeconomic Performance, 1967-1984." With Geoffrey Garrett and Peter Lange. *American Political Science Review*, June 1991, vol. 85, no. 2, 539-556. Reprinted in: Carlos Boix (ed.), *Modelos Politico-Institucionales de Politica Economica* (Madrid: Instituto de Estudios Fiscales, 1994), and Ronald Rogowski (ed.), *Comparative Politics and the International Political Economy* (Cheltenham: Edward Elgar, 1994).

"The Puzzle of Party Identification: Dimensionality of an Important Concept." *American Politics Quarterly*, October 1990, vol. 18, no. 4, 476-491.

Research Reports and Monographs

Making Voting Easier: Election Day Registration in New York. With Jonathan Nagler and Catherine Wilson. Prepared for Demos, May 2004.

California Votes: Election Day Registration in California. With Stephen Ansolabehere. Prepared for Demos, May 2002.

Voting: What is, What Could Be. Caltech/MIT Voting Technology Project, June 2001.

Bush's Tax Cut. With Edward J. McCaffery. Prepared for the USC-Caltech Center for the Study of Law and Politics, 2001.

American Opinion About Election Reform. Prepared for USC-Caltech Center for the Study of Law and Politics, 2001.

California's Blanket Primary. With Jonathan Nagler. Prepared for the California Secretary of State, 1998.

Unrefereed Publications

"Rational Voters and the Recall Election." With D. Roderick Kiewiet and Betsy Sinclair, in Shawn Bowler and Bruce Cain, *Clicker Politics*, Prentice-Hall, forthcoming.

"And now for something completely different for California elections: Other views: Commission would ease politicking" With Thad E. Hall, Special to *The Sacramento Bee*, published Tuesday, February 22, 2005.

"Ambivalence as Internal Conflict." With Bethony Albertson and John Brehm, in Stephen C. Craig and Michael D. Martinez, *Ambivalence and the Structure of Political Opinion*, Palgrave Macmillan, December 2004.

"Online Voting." With Thad Hall, in William Sims Bainbridge, *Berkshire Encyclopedia of Human-Computer Interaction*, Berkshire Publishing Group, 2004, 526-527.

"Counting Ballots and the 2000 Election: What Went Wrong?" With Betsy Sinclair and Catherine H. Wilson, in A. Crigler et. al., "Rethinking the Vote", Oxford University Press, 2004, 34-50.

"Uncertainty and American Public Opinion", with John Brehm and Catherine Wilson, in B. Burden, *Uncertainty and American Politics*, Cambridge University Press, 2003.

Review of *The Initiative and Referendum in California, 1898-1998*, *Pacific Historical Review*, 2002.

"Should I Stay or Should I Go? Crossover Voting in Assembly Races." With Jonathan Nagler, in B. Cain and E. Gerber, *California's Blanket Primary*, University of California Press, 2002.

"Gender and Tax." With Edward J. McCaffery. In S. Tolleson-Rinehart and J. J. Josephson, editors, *Gender and American Politics*, M. E. Sharpe, 2000.

Book review in *American Political Science Review*, 2000 (98:2), 463-464 of Cambridge University Press, *The Democratic Dilemma: Can Citizens Learn What They Need to Know?* 1998. Arthur Lupia and Mathew D. McCubbins.

"Gender and Tax", with Edward J. McCaffery. 2000. In S. Tolleson-Ronhart and J. J. Josephson, editors, *Gender and American Politics*, M. E. Sharpe.

Review of *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction*, *Engineering and Science*, vol. LXII, no. 1-2, 1999, 54-55.

Review of *Change and Continuity in the 1996 Elections*, *Political Science Quarterly*, Summer 1999, vol. 114, no. 2, 331.

Review of *Political Analysis, Volume 5*. *American Political Science Review*, vol. 91, no. 3, 721-722.

"Polmeth -- You've Come a Long Way, Baby." *The Political Methodologist*, Spring 1996, vol. 7, no. 2, 10-12.

"The Role of Replication," in *Mistakes That Social Scientists Make*, edited by Richard Seltzer. New York: St. Martins Press, 1996.

"Can Bush Hit a Home Run?" With Brian Loynd. *The Political Methodologist*, Spring-Summer 1994, vol. 5, no. 2, 2-4.

"Methods Madness: Graduate Training and the Political Methodology Conferences." *The Political Methodologist*, Spring 1992, vol. 5, no. 1, 2-3.

Working Papers

Papers Under Review or Revision

"Where the Good Signatures Are: The Number and Validity Rates of Initiative Petition Signatures Gathered in California Counties." With Frederick J. Boehmke.

"Why Everything That Can Go Wrong Often Does: An Analysis of Election Administration Problems." With Thad E. Hall.

"Election Day Voter Registration in the United States: How One-Step Voting Can Change the Composition of the American Electorate." With Stephen Ansolabehere and Catherine H. Wilson.

"Similar Yet Different? Latino and Anglo Party Identification." With Lisa García Bedolla.

"A Comparative Evaluation of Economic and Issue Voting." With Catherine Wilson and Jonathan Nagler.

"Whose Absentee Votes Are Counted?" With Thad Hall and Betsy Sinclair.

Papers under Preparation for Submission

"Campaign Effects in the 2004 Presidential Election." With Jonathan Nagler.

"Instigation by Initiative: The Influence of Signature Gathering Campaigns on Political Participation." With Frederick J. Boehmke.

"Machines Versus Humans: The Counting and Recounting of Pre-scored Punchcard Ballots." With Sarah A. Hill and Jonathan N. Katz.

"Detecting Election Fraud: The Case of Georgia." With Jonathan N. Katz.

"California's Latino Electorate and the Davis Recall Election." With D. Roderick Kiewiet.

"Rationality and the Recall Election." With D. Roderick Kiewiet.

"Political Competition, Partisanship, and Contemporary Election Fraud." With Fred Boehmke.

"An Experimental Study of the Adequacy of Voter Registration Lists and the Effectiveness of Official Get-Out-The-Vote Mail." With Stephen Ansolabehere and Mary King Sikora.

"How Widespread Is Voting Fraud in California?"

"Does Being First on the Ballot Matter?" With Richard Hasen and Melanie Goodrich.

"Abortion and the Latino Vote in the 2000 Presidential Election." With Marisa A. Abrajano and Jonathan Nagler.

"Aggregation and Dynamics of Survey Responses: The Case of Presidential Approval." With Jonathan Katz.

"Economic Voting in the United States: Methodological Issues and Research Agendas." With Jonathan Nagler.

"Understanding the Political Response to Affirmative Action: Antagonism and Social Context in a Multi-Ethnic World." With Claudine Gay.

"Binding the Frame: Do Frames Matter for Survey Response?" With John Brehm.

"Is the Sleeping Giant Awakening? Latinos and California Politics in the 1990's." With Jonathan Nagler.

“Electoral Institutions and Strategic Voting: California’s Experiment with the Blanket Primary.” With Jonathan Nagler.

“Modeling Voter Support in the 1989 and 1994 Dutch Elections.” With Garrett Glasgow.

“The “Ham and Eggs” Movement in Southern California: Public Opinion on Economic Redistribution in the 1938 Campaign.” With William Deverell and Elizabeth Penn.

“Does That Mariachi Band Make a Difference? Latino Public Opinion and Party Identification.” With Lisa García Bedolla.

“The Dynamics of Issue Emphasis: Campaign Strategy and Media Coverage in Statewide Races.”

“Identification in Discrete Choice Models.” With Eric Lawrence and Jonathan Nagler.

“Efficient Estimation of Models with Discrete Endogenous Regressors.” With Tara Butterfield and Garrett Glasgow.

“Hamilton’s Political Economy and the National Bank.” Duke University Program in Political Economy, Papers in American Politics, Working Paper Number 84, August 23, 1989.

“The New Republic and The New Institutionalism: Hamilton’s Plan and Extra-Legislative Organization.” Duke University Program in Political Economy, Papers in American Politics, Working Paper Number 85, August 23, 1989.

“Attributions of Responsibility and Priming in Economic Perception Survey Questions.” With Garrett Glasgow and Carla VanBeselaere.

“Do Voters Learn from Presidential Election Campaigns?” With Garrett Glasgow.

“Attitudes, Uncertainty, and the Survey Response.” With Charles Franklin.

“Correlated Disturbances in Discrete Choice Models: A Comparison of Multinomial Probit Models and Logit Models.” With Jonathan Nagler.

Professional Presentations

San Gabriel Valley Young Presidents Organization, Pasadena, October 2004 (presentation).

“The 2004 Election: What Does It Mean for Campaigns and Governance?” USC Law School Conference, October 2004 (presentation).

Caltech/MIT Voting Technology Project Symposium, “Voting Technology: Innovations for Today and Tomorrow”, presentation and session leader, MIT, October 2004.

JustDemocracy workshop presentation, Harvard University, October 2004.

League of Women Voters of Los Angeles Forum, September 10, 2004. Keynote speaker.

Annual Meetings of the American Political Science Association, August 2004 (roundtable presentation).

The National Academies workshop on "A Framework for Understanding Electronic Voting", Washington DC, July 2004 (paper presentation).

Annual Meetings of the Midwest Political Science Association, April 2004 (paper presentation).

University of Michigan, Department of Political Science, January 2004 (presentation).

"Digital Divide, Global Development and the Information Society", World Forum on Information Society, International Research Foundation for Development, Geneva, Switzerland, December 2003 (paper presentation).

Internet Survey Workshop, Pacific Chapter of American Association for Public Opinion Research, October 2003 (Presentation).

Modeling the Constitution Conference. California Institute of Technology, May 2003 (Discussant).

Earnest C. Watson Lecture, "Voting: Where We Have Been, Where We Are Going", California Institute of Technology, April 2003 (presentation).

Annual Meetings of the Midwest Political Science Association, April 2003 (two paper presentations).

Election Reform, Cantigny Conference, November 2002 (presentation).

Annual Meetings of the American Political Science Association, August 2002 (three paper presentations).

Election Law Summit, Washington D.C., June 2002 (presentation).

American Empirical Seminar Series, Stanford University, Stanford Institute for the Quantitative Study of Society, May 2002 (presentation).

Annual Meetings of the Midwest Political Science Association, April 2002 (paper presentation).

California Association of Election Officials, Los Angeles, April 2002 (presentation).

Southern California Political Methodology Program, University of California, Riverside, October 2001 (paper presentation).

City Clerk Summit III, Los Angeles County Registrar-Recorder, October 2001 (presentation).

Annual Meetings of the American Political Science Association, September 2001 (two paper presentations).

Democratic Caucus Special Committee on Election Reform, "Making Every Vote Count!" Los Angeles, CA, August 2001 (testimony).

United States Senate, Committee on Governmental Affairs, Hearings on Election Reform, May 3, 2001 (written and oral testimony).

Election Reform: 2000 and Beyond. USC-Caltech Center for the Study of Law and Politics, University of Southern California, April 2001 (paper presentation, panel session moderator).

Annual Meetings of the Midwest Political Science Association, April 2001 (paper presentation).

National Commission on Election Reform, April 2001 (testimony on new technology for elections).

Pasadena Rotary, March 28, 2001 (presentation).

Voting Technology Conference, Caltech-MIT Voting Technology Project, March 2001 (panel session moderator).

Annual Meetings of the Western Political Science Association, March 2001 (paper presentation).

Internet Voting and Democracy, Loyola Law School, October 2000 (paper presentation).

e-Voting Workshop, Internet Policy Institute, Sponsored by the National Science Foundation, conducted in cooperation with the University of Maryland and hosted by the Freedom Forum, October 2000 (panel discussion chair and research presentation).

Annual Meetings of the American Political Science Association, August 2000 (two paper presentations).

California Voting in the 21st Century, Los Angeles, May 2000 (research presentation on Internet voting).

Southern California Political Methodology Program, University of California, Santa Barbara, May 2000 (paper presentation).

Annual Meetings of the Midwest Political Science Association, April 2000 (paper presentation).

University of New Mexico, Political Science Department, April 2000.

Annual Meetings of the Western Political Science Association, March 2000 (paper presentation, roundtable presentation).

Southern California Political Methodology Program, UCLA Lake Arrowhead Conference Center, December 1999 (paper presentation).

Annual Meetings of the American Political Science Association, September 1999 (paper presentation, discussant).

Southern California Political Methodology Program, California State Polytechnic University, San Luis Obispo, May 1999 (paper presentation).

Center for Basic Research in the Social Sciences, Harvard University, April 1999.

Annual Meetings of the Midwest Political Science Association, April 1999 (paper presentation, discussant).

Annual Meetings of the Western Political Science Association, March 1999 (paper presentation).

Public Policy Institute of California, March 1999.

University of Southern California, March 1999.

Yale Law School, Yale University, February 1999.

“Campaign 1998: The California Governor’s Race”, The Institute of Governmental Studies, University of California, Berkeley, January 1999 (paper presentation).

“Proposition 227”, Center for U.S. – Mexican Studies, University of California, San Diego, January 1999 (paper presentation).

Emory University, October 1998. Annual Meetings of the Southern Political Science Association, October 1998 (paper presentation, discussant).

University of California, Irvine, Institute for Mathematical Behavioral Sciences, October 1998.

Annual Meetings of the American Political Science Association, September 1998 (two paper presentations, discussant).

Fifteenth Political Methodology Conference, July 1998 (discussant).

“California’s Blanket-Open Primary: A Natural Experiment in Election Dynamics”, University of California at Berkeley, June 1998 (participant).

Annual Meetings of the Midwest Political Science Association, April 1998 (four paper presentations, roundtable discussant, poster presentation).

University of California at Santa Barbara, April 1998.

Annual Meetings of the Western Political Science Association, March 1998 (two paper presentations, discussant).

“Orange Empires: Miami and Los Angeles” Conference. The Huntington Library, San Marino, California, February 27-28, 1998 (paper presentation).

University of California at Riverside, February 1998 (Southern California Political Methodology Group).

The Annenberg School of Communication, University of Pennsylvania, October 1997.

Duke University, October 1997.

Annual Meetings of the American Political Science Association, August 1997 (two paper presentations).

Fourteenth Political Methodology Conference, July 1997 (discussant).

University of California at Los Angeles, April 1997 (Southern California Political Methodology Group).

Annual Meetings of the Midwest Political Science Association, April 1997.

University of Michigan, March 1997.

University of Arizona, December 1996.

Annual Meetings of the Southern Political Science Association, November 1996 (three paper presentations.)

University of Minnesota, October 1996 (Second CIC Interactive Video Methods Seminar broadcast to the University of Wisconsin-Madison, the University of Illinois, and Ohio State University).

Annual Meetings of the American Political Science Association, August 1996 (three paper presentations, discussant).

Annual Meetings of the Midwest Political Science Association, April 1996 (four paper presentations).

National Election Studies Research & Development Conference on Congressional Elections, Chicago, IL, March 1996 (paper presentation).

Southern California Political Economy Seminar, University of California-Irvine, September 1995 (paper presentation).

Annual Meetings of the American Political Science Association, August 1995 (one paper presentation, chair-discussant).

Twelfth Political Methodology Conference, July 1995 (paper presentation).

Annual Meetings of the Midwest Political Science Association, April 1995 (three paper presentations).

Annual Meeting of the Public Choice Society, April 1995 (paper presentation, discussant).

Hoover Institution, Stanford University, February 1995.

National Election Study Conference on the Impact of the Presidential Campaign, University of Pennsylvania, November 1994 (discussant).

Southern California Political Economy Seminar, University of California-Irvine, October 1994 (discussant).

Annual Meetings of the American Political Science Association, August 1994 (two paper presentations).

Eleventh Political Methodology Conference, July 1994 (discussant).

Annual Meetings of the Midwest Political Science Association, April 1994 (two paper presentations and chair of panel).

Southern Political Science Association Annual Meeting, November 1993 (paper presentation).

Annual Meetings of the American Political Science Association, September 1993 (two paper presentations).

Tenth Political Methodology Conference, Florida State University, July 1993 (paper presentation).

University of California at San Diego, June 1993.

University of California at Riverside, May 1993.

Annual Meeting of the Midwest Political Science Association, April 1993 (two paper presentations).

Western Political Science Association Annual Meeting, April 1993 (chair of panel and discussant).

Annual Meetings of the American Political Science Association, August 1992 (chair of roundtable and paper presentation).

Ninth Political Methodology Conference, Harvard University, July 1992 (paper presentation).

Midwest Political Science Association Annual Meetings, Chicago, IL., April 1992 (two paper presentations).

The Political Consequences of War, The Brookings Institution, Washington, D.C., February 1992 (paper presentation).

Annual Meetings of the American Political Science Association, August 1991 (two paper presentations).

Midwest Political Science Association Annual Meeting, April 1991 (two paper presentations).

Annual Meetings of the American Political Science Association, August 1990 (paper presentation and discussant).

Midwest Political Science Association Annual Meeting, April 1990 (paper presentation).

Conference on Political Economics, National Bureau of Economic Research, February, 1990 (paper presentation).

Annual Meetings of the American Political Science Association, August 1989 (paper presentation).

Southern Political Science Association Annual Meeting, September 1988 (discussant).

Other Professional Activities

HAVA Section 301 Task Force member (State of California), November 2004 to present.

Committee member, National Commission on Elections and Voting, 2004-present.

Committee member, National Research Council Computer Science and Telecommunications Board Committee, National Academy of Sciences, "A Framework for Understanding Electronic Voting", 2004-present.

Political Research Quarterly (PRQ) Editor Search Committee, 2004-present.

Steering Committee member, The Commonwealth Club of California, 2004-present.

Board of Scholars of the Initiative and Referendum Institute (IRI), University of Southern California, Winter 2002-present.

Chair, Durr Award Committee, Midwest Political Science Association, 2003, 2004, 2005.

Recall Election Symposium, Caltech-USC Center for the Study of Politics, September 2003.

State Plan Advisory Committee member, Help America Vote Act (HAVA), Spring 2003-present.

Co-director, Caltech/MIT Voting Technology Project, Fall 2002-present.

Advisory Board, The Reform Institute, Advisory Board, 2001-present.

Participant, Federal Voting Assistance Program, Voting Over the Internet, Peer Review Workshop, March 14, 2001.

USC-Caltech Center for the Study of Law and Politics, Associate Director, 2001-present; Advisory Board, 2000-present.

American Political Science Association Research Support Advisory Committee, 2000-2002.

Advisory/Editorial board, *Encyclopedia of Social Science Research Methods* [2001 to present], Editorial board, *American Journal of Political Science* [2001 to present]; *Election Law Journal* [2001 to present]; *Journal of Politics* [2001 to present]; *Political Research Quarterly* [2000 to present]; *Political Analysis* [1998 to 2003]; *American Politics Research* formerly *American Politics Quarterly* [1997 to 2004]; *Political Behavior* [1997 to present].

Executive Council Representative, Western Political Science Association, 1998-2001.

Book series co-editor, *Techniques of Political Analysis*, published by the University of Michigan Press, 1998-2003.

Book series co-editor, *Analytical Methods for Social Research*, Cambridge University Press, 2003-present.

Best paper prize committee chair, *Political Research Quarterly*, 2002.

Program Committee and Comparative Politics Section Chair, 2000 Midwest Political Science Association Annual Meeting.

Program Committee and Issues in Methodology Section Chair, 1999 Western Political Science Association Annual Meeting.

Political Methodology Section (APSA) Publications Committee, 1997 to present.

Political Methodology Section (APSA) Nominations Committee chair, 1998.

ICPSR Summer Program Advisory Committee, 1998.

Political Methodology Section (APSA) delegate-at-large to the American Political Science Association, 1996 to 1998.

Instructor, American Political Science Association Annual Meetings Short Course, "Models of Political Choice", 1997.

Instructor, ICPSR Summer Program in Quantitative Methods, Advanced Maximum Likelihood, August 1998; August 1997.

Instructor, ICPSR Summer Program in Quantitative Methods, Maximum Likelihood, July 1996.

National Election Studies 1996 Planning Committee Member.

"Campaigns and the Study of Congressional Elections". Memorandum to the NES Board of Overseers, September 5, 1995.

"Survey Measures of Uncertainty: A Report to the NES Board on the Use of 'Certainty' Questions to Measure Uncertainty About Candidate Traits and Issue Positions," Memorandum to the NES Board of Overseers, January 1996.

Program Committee and Political Methodology Section Chair, 1996 Midwest Political Science Association Annual Meeting.

Co-editor, *The Political Methodologist*, Newsletter of the Political Methodology Section of the American Political Science Association, 1993-1996.

Co-organizer, Southern California Political Economy Seminars, 1993 to 1995.

Participant in the Annual Political Methodology Summer Conferences, 1989, 1990, 1991, 1996, 2000.

Participant in the Methodological Advances in Comparative Political Economy Conference, April 1991.

Manuscript reviews: *American Journal of Political Science*; *American Political Science Review*; *American Politics Review*; *American Politics Research*; *British Journal of Political Science*; *Canadian Journal of Political Science*; *The Harvard International Journal of Press/Politics*; *Journal of Law, Economics and Organization*; *Journal of Politics*; *Journal of Theoretical Politics*; *Pacific Historical Review*; *Political Analysis*; *Political Behavior*; *Political*

Research Quarterly; Polity; Public Opinion Quarterly; Social Science Quarterly; State Politics and Political Quarterly.

Book manuscript review, University of Michigan Press, Harvard University Press, Princeton University Press, University of Chicago Press, University of Pittsburg Press, Quantitative Analysis in the Social Sciences (Sage Publications), Cambridge University Press, State University of New York Press.

Project proposal reviewer, National Science Foundation, Carnegie Corporation of New York.

Member of American Political Science Association, Midwest Political Science Association, Western Political Science Association, Southern Political Science Association, The Econometric Society, California Historical Society.

Columnist (biweekly), *Pasadena Weekly*, "From the Ivory Tower", 1999-2000.

Panelist, Pasadena Mayor Forum, March 3, 1999.

Panelist, "Measuring Progress in Our Schools", March 21, 2000.

Member, Internet Voting Task Force, California Secretary of State's Office, 1999.

Panelist, National Science Foundation National Workshop on Internet Voting, October 2000.

Consultant to: Duke University, Dean of Undergraduate Admissions (1988-90); Duke University, Law School Admissions (1990-91); State of California, Office of the Attorney General, *California Democratic Party vs. Jones* (1997); State of California, Secretary of State's Office, *Open Primary Analysis* (1998); Knight-Ridder Newspapers, *Hispanic Voter Poll 2000*, O'Melveny & Myers, LLP, *Righeimer vs. Jones* (2000); City of Compton, *Bradley vs. Compton* (2001); State of California, Senate Democratic Caucus, *Cano vs. Davis* (2001); Demos, *California Votes: Election Day Registration in California* (2002); Greenberg, Quinlan, Rosner, (*Hispanic Voter Surveys*) (2004); Greenberg, Quinlan, Rosner (NARAL Pro-Choice American) (2004); The Mellman Group (*Hispanic Voter Surveys*) (2004).

Media relations (partial list): Guest, KPCC-FM *Airtalk*, *Talk of the City*; 2000 Super Tuesday Analysis, *National Public Radio*; Science Friday, *National Public Radio*, Latino Politics and the DNC, KNX Radio; Special on Latino Politics 2000, *CBC Radio-Canada*; Editorial, *Pasadena Star-News*; Interviews, *US News and World Report*, *Financial Times*, *PC Week*, KQED-FM's "California Report", *Dallas Business Journal*, *Associated Press-Sacramento*, *Wired Magazine*, *CQ Weekly Review*, *Los Angeles Times*, *New York Times*, *Chronicle of Higher Education*, *Glendale News Press*, *Reforma (Mexico City)*, *Sacramento Bee*, *USA Today*, *San Jose Mercury News*, *CBS News*, *Swedish National Public Radio*, *KCET Life and Times*, *The New Republic*, *The NewsHour with Jim Lehrer*, *CNN*, *CNN Moneyline*, *CNN-Online*, *San Francisco Chronicle*, *The Dallas Morning News*, *Business Week*, *CASH Magazine*, *Pasadena Star-News*, *Pasadena Weekly*, *Fresno Bee*, *Contra Costa Times*, *ABC News*, *California Journal*, *Orange County Register*, *Fox News*, *San Diego Union Tribune*; *Chicago Tribune*; *Los Angeles Business Journal*; *Sunday London Times*; *Fusion Magazine*, *Kiplinger's Personal Finance Magazine*, *Scripps-Howard News Service*, *Washington Post*, *Wall Street Journal*.

Institute Service

The Friends of the Caltech Library “Focal Presentation”, September 27, 2004. “Voter Registration: Past, Present, and Future”.

Division of Humanities and Social Sciences, California Institute of Technology, Political Science Search Committee Chair, 1993, 1994, 1998, 1999, 2000.

Division of Humanities and Social Sciences, California Institute of Technology, Political Science Search Committee, 2001 to present.

Division of Humanities and Social Sciences, California Institute of Technology, Social Sciences Strategic Planning Committee Political Science Search Committee, 2004 to present.

FACS Science Reporting Institute, Research presentations, June 2001, June 2002.

SURF Seminar presentation, August 7, 1996; July 25, 2001.

Research presentations to the Executive Council of the Caltech Board of Trustees, December 2, 1996; July 12, 2001.

Discovery Weekend presentation, March 16, 2001.

Division of Humanities and Social Sciences, California Institute of Technology, Division Library Committee, 1993 to present.

Hazardous Chemical Safety Committee, California Institute of Technology, 2000 to present.

Computational Science and Engineering Committee, California Institute of Technology, 2000 to present.

Chair, Caltech Women’s Center Advisory Board, 1998 to 2001. Women’s Center Advisory Committee Member, California Institute of Technology, 1994 to 1998. Women’s Center Advisor Board, Chair, 1998-2001.

Dissertation Committee Chair, California Institute of Technology:

Fang Wang (Political Science, 1998), currently at First Quadrant, Inc.

Garrett Glasgow (Political Science, 1999), currently at the University of California, Santa Barbara.

Fred Boehmke (Political Science, 2000), currently at the University of Iowa.

Tara Butterfield (Political Science, 2001).

Catherine Wilson (Political Science, 2002), currently at Northwestern University.

Carla VanBeselaere (Political Science and Economics, 2004).

Betsy Sinclair (Political Science 2007).

Dissertation Committee Member, California Institute of Technology, Mark Fey (Political Science, 1994), Jason Saving (Economics, 1995), Michael Udell (Economics, 1995), Micah Altman (Political Science, 1998), Reginald Roberts (Political Science, 2001), Valentina Bali

(Political Science and Economics, 2001), Elizabeth Penn (Political Science, 2003), Kevin Roust (Political Science, 2005).

Dissertation Committee Member, New York University, Marisa A. Abrajano (Political Science, 2005).

Sponsor, Summer Undergraduate Research Fellowship, California Institute of Technology, Daniel T. Knoepfle and Eugenia S. Iofinova (2004); Melanie Goodrich (2002, 2003); Betsy Sinclair (2001); Neal Reeves (1999); John White (1994); Stacy Kerkela (1993).

Alumni College presentation, June 22, 2000.

Division of Humanities and Social Sciences, California Institute of Technology, Graduate Admissions Committee, 1993 to 1998, 2000. Committee Chair, 1996.

Research presentation to the Caltech Associates, October 27, 1998.

Social Science .01 Lecture, "Empirical Voting Models", May 8, 1998.

Director of Graduate Studies and Graduate Option Representative, Social Sciences, 1996 to 1998.

Division of Humanities and Social Sciences, California Institute of Technology, Graduate Admissions Committee Chair, 1996.

Research and Teaching Interests

American voting behavior, campaigns and elections, American government, macro-political economy, positive theory/public choice, comparative politics, quantitative methodologies.

March 8, 2005

STEPHEN DANIEL ANSOLABEHRE

EDUCATION

Harvard University	Ph.D., Political Science	1989
University of Minnesota	B.A., Political Science	1984
	B.S., Economics	

PROFESSIONAL EXPERIENCE

ACADEMIC POSITIONS

1998-present	Elting R. Morison Professor, Department of Political Science, MIT
2002-present	Associate Head, Department of Political Science
2000-2004	Co-Director, Caltech/MIT Voting Technology Project
1995-1998	Associate Professor, Department of Political Science, MIT
1993-1994	National Fellow, The Hoover Institution
1989-1993	Assistant Professor, Department of Political Science, University of California, Los Angeles

FELLOWSHIPS AND HONORS

Carnegie Scholar	2000-02
Goldsmith Book Prize for <i>Going Negative</i>	1996
National Fellow, The Hoover Institution	1993-94
Harry S. Truman Fellowship	1982-86

PUBLICATIONS

Books

1996	<i>Going Negative: How Political Advertising Divides and Shrinks the American Electorate</i> (with Shanto Iyengar). The Free Press.
1993	<i>The Media Game: American Politics in the Television Age</i> (with Roy Behr and Shanto Iyengar). Macmillan.

Articles in Refereed Journals

- Forthcoming “Statistical Bias in Newspaper Reporting: The Case of Campaign Finance”
Public Opinion Quarterly (with James M. Snyder, Jr., and Erik Snowberg).
- Forthcoming “Studying Elections” *Policy Studies Journal* (with Charles H. Stewart III and R. Michael Alvarez).
- Forthcoming “Legislative Bargaining under Weighted Voting” *American Economic Review*
(with James M. Snyder, Jr., and Michael Ting)
- Forthcoming “Voting Weights and Formateur Advantages in Coalition Formation: Evidence from Parliamentary Coalitions, 1946 to 2002” (with James M. Snyder, Jr., Aaron B. Strauss, and Michael M. Ting) *American Journal of Political Science*.
- Forthcoming “Reapportionment and Party Realignment in the American States” *Pennsylvania Law Review* (with James M. Snyder, Jr.)
- 2004 “Residual Votes Attributable to Voting Technologies” (with Charles Stewart)
Journal of Politics (forthcoming)
- 2004 “Using Term Limits to Estimate Incumbency Advantages When Office Holders Retire Strategically” (with James M. Snyder, Jr.). *Legislative Studies Quarterly* vol. 29, November 2004, pages 487-516.
- 2004 “Did Firms Profit From Soft Money?” (with James M. Snyder, Jr., and Michiko Ueda) *Election Law Journal* vol. 3, April 2004.
- 2003 “Bargaining in Bicameral Legislatures” (with James M. Snyder, Jr. and Mike Ting) *American Political Science Review*, August, 2003.
- 2003 “Why Is There So Little Money in U.S. Politics?” (with James M. Snyder, Jr.)
Journal of Economic Perspectives, Winter, 2003.
- 2002 “Equal Votes, Equal Money: Court-Ordered Redistricting and the Public Spending in the American States” (with Alan Gerber and James M. Snyder, Jr.)
American Political Science Review, December, 2002.
Paper awarded the Heinz Eulau award for the best paper in the American Political Science Review.
- 2002 “Are PAC Contributions and Lobbying Linked?” (with James M. Snyder, Jr. and Micky Tripathi) *Business and Politics* 4, no. 2.
- 2002 “The Incumbency Advantage in U.S. Elections: An Analysis of State and Federal

- Offices, 1942-2000" (with James Snyder) *Election Law Journal*, 1, no. 3.
- 2001 "Voting Machines, Race, and Equal Protection." *Election Law Journal*, vol. 1, no. 1
- 2001 "Models, assumptions, and model checking in ecological regressions" (with Andrew Gelman, David Park, Phillip Price, and Lorraine Minnite) *Journal of the Royal Statistical Society*, series A, 164: 101-118.
- 2001 "The Effects of Party and Preferences on Congressional Roll Call Voting." (with James Snyder and Charles Stewart) *Legislative Studies Quarterly* (forthcoming).
Paper awarded the *Jewell-Lowenberg Award* for the best paper published on legislative politics in 2001. Paper awarded the *Jack Walker Award* for the best paper published on party politics in 2001.
- 2001 "Candidate Positions in Congressional Elections," (with James Snyder and Charles Stewart). *American Journal of Political Science* 45 (November).
- 2000 "Old Voters, New Voters, and the Personal Vote," (with James Snyder and Charles Stewart) *American Journal of Political Science* 44 (February).
- 2000 "Soft Money, Hard Money, Strong Parties," (with James Snyder) *Columbia Law Review* 100 (April):598 - 619.
- 2000 "Campaign War Chests and Congressional Elections," (with James Snyder) *Business and Politics*. 2 (April): 9-34.
- 1999 "Replicating Experiments Using Surveys and Aggregate Data: The Case of Negative Advertising." (with Shanto Iyengar and Adam Simon) *American Political Science Review* 93 (December).
- 1999 "Valence Politics and Equilibrium in Spatial Models," (with James Snyder), *Public Choice*.
- 1999 "Money and Institutional Power," (with James Snyder), *Texas Law Review* 77 (June, 1999): 1673-1704.
- 1997 "Incumbency Advantage and the Persistence of Legislative Majorities," (with Alan Gerber), *Legislative Studies Quarterly* 22 (May 1997).
- 1996 "The Effects of Ballot Access Rules on U.S. House Elections," (with Alan Gerber), *Legislative Studies Quarterly* 21 (May 1996).
- 1994 "Riding the Wave and Issue Ownership: The Importance of Issues in Political

- Advertising and News,” (with Shanto Iyengar) *Public Opinion Quarterly* 58: 335-357.
- 1994 “Horseshoes and Horseraces: Experimental Evidence of the Effects of Polls on Campaigns,” (with Shanto Iyengar) *Political Communications* 11/4 (October-December): 413-429.
- 1994 “Does Attack Advertising Demobilize the Electorate?” (with Shanto Iyengar), *American Political Science Review* 89 (December).
- 1994 “The Mismeasure of Campaign Spending: Evidence from the 1990 U.S. House Elections,” (with Alan Gerber) *Journal of Politics* 56 (September).
- 1993 “Poll Faulting,” (with Thomas R. Belin) *Chance* 6 (Winter): 22-28.
- 1991 “The Vanishing Marginals and Electoral Responsiveness,” (with David Brady and Morris Fiorina) *British Journal of Political Science* 22 (November): 21-38.
- 1991 “Mass Media and Elections: An Overview,” (with Roy Behr and Shanto Iyengar) *American Politics Quarterly* 19/1 (January): 109-139.
- 1990 “The Limits of Unraveling in Interest Groups,” *Rationality and Society* 2: 394-400.
- 1990 “Measuring the Consequences of Delegate Selection Rules in Presidential Nominations,” (with Gary King) *Journal of Politics* 52: 609-621.
- 1989 “The Nature of Utility Functions in Mass Publics,” (with Henry Brady) *American Political Science Review* 83: 143-164.

Special Reports

- 2002 “Election Day Registration.” A report prepared for DEMOS. This report analyzes the possible effects of Proposition 52 in California based on the experiences of 6 states with election day registration.
- 2002 “MIT Energy Survey: Summary Results,” report prepared for the MIT Nuclear Study Group.
- 2001 *Voting: What Is, What Could Be.* A report of the Caltech/MIT Voting Technology Project. This report examines the voting system in the United States and was widely used by election reform efforts following the 2000 election, including the National Commission on Federal Election Reform and the National Council of State Legislatures.

- 2001 “An Assessment of the Reliability of Voting Technologies.” A report of the Caltech/MIT Voting Technology Project. This report provided the first nationwide assessment of voting equipment performance in the United States. It was prepared for the Governor’s Select Task Force on Election Reform in Florida.

Chapters in Books

- 2005 “Voters, Candidates and Parties” in *Handbook of Political Economy*, Barry Weingast and Donald Wittman, eds. New York: Oxford University Press.
- 2003 “Baker v. Carr in Context, 1946 – 1964” (with Samuel Isaacharoff) in *Constitutional Cases in Context*, Michael Dorf, editor. New York: Foundation Press.
- 2002 “Corruption and the Growth of Campaign Spending”(with Alan Gerber and James Snyder). *A User’s Guide to Campaign Finance*, Jerry Lubenow, editor. Rowman and Littlefield.
- 2001 “The Paradox of Minimal Effects,” in Henry Brady and Richard Johnston, eds., *Do Campaigns Matter?* University of Michigan Press.
- 2001 “Campaigns as Experiments,” in Henry Brady and Richard Johnson, eds., *Do Campaigns Matter?* University of Michigan Press.
- 2000 “Money and Office,” (with James Snyder) in David Brady and John Cogan, eds., *Congressional Elections: Continuity and Change*. Stanford University Press.
- 1996 “The Science of Political Advertising,” (with Shanto Iyengar) in *Political Persuasion and Attitude Change*, Richard Brody, Diana Mutz, and Paul Sniderman, eds. Ann Arbor, MI: University of Michigan Press.
- 1995 “Evolving Perspectives on the Effects of Campaign Communication,” in Philo Warburn, ed., *Research in Political Sociology*, vol. 7, JAI.
- 1995 “The Effectiveness of Campaign Advertising: It’s All in the Context,” (with Shanto Iyengar) in *Campaigns and Elections American Style*, Candice Nelson and James A. Thurber, eds. Westview Press.
- 1993 “Information and Electoral Attitudes: A Case of Judgment Under Uncertainty,” (with Shanto Iyengar), in *Explorations in Political Psychology*, Shanto Iyengar and William McGuire, eds. Durham: Duke University Press.

Working Papers

- 2004 "Voting Cues and the Incumbency Advantage: A Critical Test" (with Shigeo Hirano, James M. Snyder, Jr., and Michiko Ueda)
- 2004 "Television and the Incumbency Advantage" (with Erik C. Snowberg and James M. Snyder, Jr)
- 2004 "Using Recounts to Measure the Accuracy of Vote Tabulations: Evidence from New Hampshire Elections, 1946 to 2002" (with Andrew Reeves).
- 2004 "Did the Introduction of Voter Registration Decrease Turnout?" (with David Konisky).
- 2002 "Evidence of Virtual Representation: Reapportionment in California," (with Ruimin He and James M. Snyder).
- 2002 "Lost Votes." (with Charles Stewart) Paper presented at the annual meeting of the American Political Science Association.
- 2002 "Rational Publics: The Case of Energy"
- 1999 "Why did a majority of Californians vote to lower their own power?" (with James Snyder and Jonathan Woon). Paper presented at the annual meeting of the American Political Science Association, Atlanta, GA, September, 1999. Paper received the award for the best paper on Representation at the 1999 Annual Meeting of the APSA.
- 1999 "Has Television Increased the Cost of Campaigns?" (with Alan Gerber and James Snyder).
- 1996 "Money, Elections, and Candidate Quality," (with James Snyder).
- 1996 "Party Platform Choice - Single- Member District and Party-List Systems,"(with James Snyder).
- 1995 "Messages Forgotten" (with Shanto Iyengar).
- 1994 "Consumer Contributors and the Returns to Fundraising: A Microeconomic Analysis," (with Alan Gerber), presented at the Annual Meeting of the American Political Science Association, September.
- 1992 "Biases in Ecological Regression," (with R. Douglas Rivers) August, (revised February 1994). Presented at the Midwest Political Science Association Meetings, April 1994, Chicago, IL.

- 1992 "Using Aggregate Data to Correct Nonresponse and Misreporting in Surveys" (with R. Douglas Rivers). Presented at the annual meeting of the Political Methodology Group, Cambridge, Massachusetts, July.
- 1991 "The Electoral Effects of Issues and Attacks in Campaign Advertising" (with Shanto Iyengar). Presented at the Annual Meeting of the American Political Science Association, Washington, DC.
- 1991 "Television Advertising as Campaign Strategy: Some Experimental Evidence" (with Shanto Iyengar). Presented at the Annual Meeting of the American Association for Public Opinion Research, Phoenix.
- 1991 "Why Candidates Attack: Effects of Televised Advertising in the 1990 California Gubernatorial Campaign," (with Shanto Iyengar). Presented at the Annual Meeting of the Western Political Science Association, Seattle, March.
- 1990 "Winning is Easy, But It Sure Ain't Cheap." Working Paper #90-4, Center for the American Politics and Public Policy, UCLA. Presented at the Political Science Departments at Rochester University and the University of Chicago.

Research Grants

- 1989-1990 Markle Foundation. "A Study of the Effects of Advertising in the 1990 California Gubernatorial Campaign." Amount: \$50,000
- 1991-1993 Markle Foundation. "An Experimental Study of the Effects of Campaign Advertising." Amount: \$150,000
- 1991-1993 NSF. "An Experimental Study of the Effects of Advertising in the 1992 California Senate Electoral." Amount: \$100,000
- 1994-1995 MIT Provost Fund. "Money in Elections: A Study of the Effects of Money on Electoral Competition." Amount: \$40,000
- 1996-1997 National Science Foundation. "Campaign Finance and Political Representation." Amount: \$50,000
- 1997 National Science Foundation. "Party Platforms: A Theoretical Investigation of Party Competition Through Platform Choice." Amount: \$40,000
- 1997-1998 National Science Foundation. "The Legislative Connection in Congressional Campaign Finance. Amount: \$150,000
- 1999-2000 MIT Provost Fund. "Districting and Representation." Amount: \$20,000.

- 1999-2002 Sloan Foundation. "Congressional Staff Seminar." Amount: \$156,000.
- 2000-2001 Carnegie Corporation. "The Caltech/MIT Voting Technology Project." Amount: \$253,000.
- 2001-2002 Carnegie Corporation. "Dissemination of Voting Technology Information." Amount: \$200,000.
- 2003-2005 National Science Foundation. "State Elections Data Project." Amount: \$256,000.
- 2003-2004 Carnegie Corporation. "Internet Voting." Amount: \$279,000.
- 2003-2005 Knight Foundation. "Accessibility and Security of Voting Systems." Amount: \$450,000.

Professional Boards and Task Forces

- Member, Board of the National Election Studies (1999 to present)
Editorial Board of Legislative Studies Quarterly (2005 to present)
Editorial Board of the Election Law Journal (2002 to present)
Editorial Board of the Harvard International Journal of Press/Politics (1996 to present)
Editorial Board of Business and Politics (2002 to Present)

Special Projects and Task Forces

- Co-Director, Caltech/MIT Voting Technology Project (2000 to present)
- Co-Organizer, MIT Seminar for Senior Congressional and Executive Staff (1996 to present)
- MIT Coal Study (2004-present)
- MIT Nuclear Study (2002-2004)
- Voting Technology Task Force Leader, Election Reform Initiative of The Constitution Project (2001 to 2002)

Interview List

Academics

Together (TW)

Mike Alvarez
Steve Ansolobohere
Lori Minnite
Chandler Davidson

Judges

Together (JS)

Justice Tom Glaze, Supreme Court of Arkansas
Justice Charles Talley Wells, Supreme Court of Florida
Justice Evelyn Lundberg Stratton, Supreme Court of Ohio
Justice Pamela B. Minzner, Supreme Court of New Mexico

Election Administrators

Harry Van Sickle, Commissioner of Elections, Pennsylvania (TW)
Mike McCarthy, Supervisor of Elections, Minnesota (PS)
John Ravitz, Board of Elections, New York City (TW)
Kevin Kennedy, Director of Elections, Wisconsin (PS)
Connie McCormick, Los Angeles County Registrar (PS)
Trey Grayson, Kentucky Secretary of State
Sarah Ball Johnson -- Director of Elections, KY (McConnell) (PS)
Rebecca Vigil-Giron, Secretary of State (TW)
Tom Harrison, former Secretary of State Office (PS)

Advocates

Wade Henderson, Executive Director, Leadership Conference on Civil Rights (TW)
Donna Brazile, Chair, Democratic National Committee's Voting Rights Institute (TW)
Nina Perales, Regional Counsel, Mexican American Legal Defense and Educational Fund (TW)
James A. Baker III (DC), Baker-Carter Commission (JS)
Sharon Priest (AR), former Secretary of State of Arkansas, Baker-Carter Commission (while in Little Rock) (JS)
Robin DeJarnette, Executive Director, American Center for Voting Rights (JS)

Election Lawyers

Wendy Weiser, Brennan Center (TW)

Joseph Sandler, Sandler, Reif & Young (TW)

Joseph Rich, former head of the Voting Section, DOJ (TW)

Pat Rogers, Modrall, Sperling, Roehl, Harris and Sisk, P.A.(JS)

Colleen McAndrews, Bell, McAndrews, Hiltachk, & Davidson (JS)

Charles Bell Jr., Bell, McAndrews, Hiltachk, & Davidson (JS)

Attorneys involved in the Georgia, Indiana, and Arizona Litigation**Georgia**

Thurbert Baker, Georgia Attorney General (Defendants) (JS)

Laughlin McDonald and Danny Levitas, ACLU of Georgia (Plaintiffs) (TW)

Indiana

Bill Groth, Fillenwarth, Dennerline, Groth & Towe (Plaintiffs) (TW)

Thomas M. Fisher, Esq. and Douglas J. Webber, Esq. Indiana Attorney General's Office
(Defendants) (JS)

Arizona

Steve Reyes and Nina Perales, MALDEF (Plaintiffs) (TW)

Mary O'Grady, Arizona Assistant Attorney General (JS)

SCHEDULE OF INTERVIEWS - VOTING FRAUD/VOTER INTIMIDATION PROJECT

Date	Time	Name	Organization	Phone #	Arrangements
1/13/2006	2:00 PM EST	Craig Donsanto	Director, Election Crimes Branch, DOJ	202-514-1421	Tova and Peg to meet Donsanto at DOJ and call Job
2/14/2006	11:00 AM EST	Wade Henderson	Leadership Conference on Civil Rights	202-466-3311	Tova will coordinate call
2/15/2006	2:00 PM EST	Douglas Webber	Indiana Assistant Attorney General	317-373-4346 317-232-6224	Peg Sims will call Tova, Job, and Webber to establish Conference Call
2/16/2006	11:00 AM EST	John Ravitz	Board of Elections, New York City	212-487-5412	All participants should dial 1-866-222-9044 and enter Pass Code 62209
	2:00 PM EST	Robin DeJarnette	American Center for Voting Rights	804-241-5368	All participants should dial 1-866-222-9044 and enter Pass Code 62209
2/17/2006	Noon EST	Steve Ansolobehere	MIT		All participants should dial 1-866-222-9044 and enter Pass Code 62209
		Chandler Davidson	Rice University		All participants should dial 1-866-222-9044 and enter Pass Code 62209
	3:00 PM EST	Evelyn Stratton	Justice, Ohio Supreme Court	614-387-9050	All participants should dial 1-866-222-9044 and enter Pass Code 62209
2/21/2006	1:00 PM EST	Neil Bradley	Lawyer for GA Plaintiffs	404-523-2721 ext 217	All participants should dial 1-866-222-9044 and enter Pass Code 62209
2/22/2006	11:00 AM EST	Wendy Weiser	Brennan Center	212-998-6130	All participants should dial 1-866-222-9044 and enter Pass Code 62209
	Noon EST	Lori Minnite	Barnard College		All participants should dial 1-866-222-9044 and enter Pass Code 62210
	4:00 PM EST	Bill Groth	Fillenwarth, Dennerline, Groth & Towe (IN Plaintiffs)	317-353-9363	All participants should dial 1-866-222-9044 and enter Pass Code 62209
2/24/2006	Noon EST	Joe Sandler	Sandler, Reif & Young	202-479-1111	Job will call EAC toll-free. Peg will transfer him to Sandler's office.
	2:00 PM EST	John Tanner	DOJ	202-514-2386	Suggest calling Job from Tanner's office and using speaker phone.
3/1/2006	11:00 AM EST	Harry VanSickle	Commissioner of Elections - PA		All participants should dial 1-866-222-9044 and enter Pass Code 62209
3/3/2006	Noon EST	Pat Rogers	Modrall, Sperling, Roehl, Harris and Sisk, P.A.		All participants should dial 1-866-222-9044 and enter Pass Code 62209
	3:00 PM EST	Tracy Campbell	University of Kentucky		All participants should dial 1-866-222-9044 and enter Pass Code 62209
3/7/2006	11:00 AM EST	Nina Perales	MALDEF		All participants should dial 1-866-222-9044 and enter Pass Code 62209
3/22/2006	3:30 PM EST	Heather Dawn Thompson	The Appleseed Foundation/Native Vote Election Protection Project		All participants should dial 1-866-222-9044 and enter Pass Code 62209.
3/24/2006	Noon EST	Rebecca Vigil-Giron	Secretart of State, NM		All participants should dial 1-866-222-9044 and enter Pass Code 62209.

As of 3/20/06

Phone Numbers for EAC Consultants:
Tova Wang, 212-452-7704
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014894

SCHEDULE OF INTERVIEWS - VOTING FRAUD/VOTER INTIMIDATION PROJECT

Date	Time	Name	Organization	Phone #	Arrangements
2/16/2006	11:00 AM EST	John Ravitz	Board of Elections, New York City	212-487-5412	
	2:00 PM EST	Robin DeJarnette	American Center for Voting Rights	804-241-5368	
2/17/2006	Noon EST	Mike Alvarez	CalTech		All participants should dial 1-866-222-9044 and enter Pass Code 62209.
		Steve Ansolobohere	MIT		
		Chandler Davidson	Rice University		
	3:00 PM EST	Evelyn Stratton	Justice, Ohio Supreme Court	614-387-9050	
2/21/2006	4:00 PM EST	Neil Bradley	Lawyer for GA Plaintiffs	404.523.2721 ext 217	
2/22/2006	11:00 AM EST	Wendy Weiser	Brennan Center	212-998-6130	
	Noon EST	Lori Minnite	Barnard College		
	4:00 PM EST	Bill Groth	Fillenwarth, Dennerline, Groth & Towe (IN Plaintiffs)	317-353-9363	
3/7/2006	11:00 AM EST	Nina Perales	MALDEF		

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**Determining a Methodology for Measuring Voter Fraud and Intimidation:
Recommendations of Political Scientists**

The following is a summary of interviews conducted with a number of political scientists and experts in the field as to how one might undertake a comprehensive examination of voter fraud and intimidation. A list of the individuals interviewed and their ideas are available, and all of the individuals welcome any further questions or explanations of their recommended procedures.

- 1) In analyzing instances of alleged fraud and intimidation, we should look to criminology as a model. In criminology, experts use two sources: the Uniform Crime Reports, which are all reports made to the police, and the Victimization Survey, which asks the general public whether a particular incident has happened to them. After surveying what the most common allegations are, we should conduct a survey of the general public that ask whether they have committed certain acts or been subjected to any incidents of fraud or intimidation. This would require using a very large sample, and we would need to employ the services of an expert in survey data collection. (Stephen Ansolobhere, MIT)
- 2) Several political scientists with expertise in these types of studies recommended a methodology that includes interviews, focus groups, and a limited survey. In determining who to interview and where the focus groups should be drawn from, they recommend the following procedure:
 - Pick a number of places that have historically had many reports of fraud and/or intimidation; from that pool pick 10 that are geographically and demographically diverse, and have had a diversity of problems
 - Pick a number of places that have not had many reports of fraud and/or intimidation; from that pool pick 10 places that match the geographic and demographic make-up of the previous ten above (and, if possible, have comparable elections practices)
 - Assess the resulting overall reports and impressions resulting from these interviews and focus groups, and examine comparisons and differences among the states and what may give rise to them.

In conducting a survey of elections officials, district attorneys, district election officers, they recommend that:

- The survey sample be large in order to be able to get the necessary subsets
- The survey must include a random set of counties where there have and have not been a large number of allegations

(Allan Lichtman, American University; Thad Hall, University of Utah; Bernard Grofman, UC – Irvine)

- 3) Another political scientist recommended employing a methodology that relies on qualitative data drawn from in-depth interviews with key critics and experts on all sides of the debate on fraud; quantitative data collected through a survey of state and local elections and law enforcement officials; and case studies. Case studies should focus on the five or ten states, regions or cities where there has been a history of election fraud to examine past and present problems. The survey should be mailed to each state's attorney general and secretary of state, each county district attorney's office and each county board of elections in the 50 states. (Lorraine Minnite, Barnard College)
- 4) The research should be a two-step process. Using LexisNexis and other research tools, a search should be conducted of news media accounts over the past decade. Second, interviews with a systematic sample of election officials nationwide and in selected states should be conducted. (Chandler Davidson, Rice University)
- 5) One expert in the field posits that we can never come up with a number that accurately represents either the incidence of fraud or the incidence of voter intimidation. Therefore, the better approach is to do an assessment of what is most likely to happen, what election violations are most likely to be committed – in other words, a risk analysis. This would include an analysis of what it would actually take to commit various acts, e.g. the cost/benefit of each kind of violation. From there we could rank the likely prevalence of each type of activity and examine what measures are or could be effective in combating them. (Wendy Weiser, Brennan Center of New York University)
- 6) Replicate a study in the United States done abroad by Susan Hyde of the University of California- San Diego examining the impact of impartial poll site observers on the incidence of election fraud. Doing this retrospectively would require the following steps:
 - Find out where there were federal observers
 - Get precinct level voting information for those places
 - Analyze whether there was any difference in election outcomes in those places with and without observers, and whether any of these results seem anomalous.

Despite the tremendous differences in the political landscapes of the countries examined by Hyde in previous studies and the U.S., Hyde believes this study could be effectively replicated in this country by sending observers to a random sample of precincts. Rather than compare the incumbent's vote share, such factors such as voter complaints, voter turnout, number of provisional ballots used, composition of the electorate, as well as any anomalous voting results could be compared between sites with and without monitors.

For example, if intimidation is occurring, and if reputable monitors make intimidation less likely or voters more confident, then turnout should be higher on average in monitored precincts than in unmonitored precincts. If polling station officials are intentionally refusing to issue provisional ballots, and the polling station officials are

more likely to adhere to regulations while being monitored, the average number of provisional ballots should be higher in monitored precincts than in unmonitored precincts. If monitors cause polling station officials to adhere more closely to regulations, then there should be fewer complaints (in general) about monitored than unmonitored precincts (this could also be reversed if monitors made voters more likely to complain).

Again, random assignment controls for all of the other factors that otherwise influence these variables.

One of the downsides of this approach is it does not get at some forms of fraud, e.g. absentee ballot fraud; those would have to be analyzed separately

7) Another political scientist recommends conducting an analysis of vote fraud claims and purging of registration rolls by list matching. Allegations of illegal voting often are based on matching of names and birth dates. Alleged instances of double voting are based on matching the names and birth dates of persons found on voting records. Allegations of ineligible felon (depending on state law), deceased, and of non-citizen voting are based on matching lists of names, birth dates, and sometimes addresses of such people against a voting records. Anyone with basic relational database skills can perform such matching in a matter of minutes.

However, there are a number of pitfalls for the unwary that can lead to grossly over-estimating the number of fraudulent votes, such as missing or ignored middle names and suffixes or matching on missing birth dates. Furthermore, there is a surprising statistical fact that a group of about three hundred people with the same first and last name are almost assured to share the exact same birth date, including year. In a large state, it is not uncommon for hundreds of Robert Smiths (and other common names) to have voted. Thus, allegations of vote fraud or purging of voter registration rolls by list matching almost assuredly will find a large proportion of false positives: people who voted legally or are registered to vote legally.

Statistics can be rigorously applied to determine how many names would be expected to be matched by chance. A simulation approach is best applied here: randomly assign a birth date to an arbitrary number of people and observe how many match within the list or across lists. The simulation is repeated many times to average out the variation due to chance. The results can then be matched back to actual voting records and purge lists, for example, in the hotly contested states of Ohio or Florida, or in states with Election Day registration where there are concerns that easy access to voting permits double voting. This analysis will rigorously identify the magnitude alleged voter fraud, and may very well find instances of alleged fraud that exceed what might have otherwise happened by chance.

This same political scientist also recommends another way to examine the problem: look at statistics on provisional voting: the number cast might provide indications of intimidation (people being challenged at the polls) and the number of those not counted

would be indications of "vote fraud." One could look at those jurisdictions in the Election Day Survey with a disproportionate number of provisional ballots cast and cross reference it with demographics and number of provisional ballots discarded. (Michael McDonald, George Mason University)

- 8) Spencer Overton, in a forthcoming law review article entitled *Voter Identification*, suggests a methodology that employs three approaches— investigations of voter fraud, random surveys of voters who purported to vote, and an examination of death rolls provide a better understanding of the frequency of fraud. He says all three approaches have strengths and weaknesses, and thus the best studies would employ all three to assess the extent of voter fraud. An excerpt follows:

1. *Investigations and Prosecutions of Voter Fraud*

Policymakers should develop databases that record all investigations, allegations, charges, trials, convictions, acquittals, and plea bargains regarding voter fraud. Existing studies are incomplete but provide some insight. For example, a statewide survey of each of Ohio's 88 county boards of elections found only four instances of ineligible persons attempting to vote out of a total of 9,078,728 votes cast in the state's 2002 and 2004 general elections. This is a fraud rate of 0.00000045 percent. The Carter-Baker Commission's Report noted that since October 2002, federal officials had charged 89 individuals with casting multiple votes, providing false information about their felon status, buying votes, submitting false voter registration information, and voting improperly as a non-citizen. Examined in the context of the 196,139,871 ballots cast between October 2002 and August 2005, this represents a fraud rate of 0.0000005 percent (note also that not all of the activities charged would have been prevented by a photo identification requirement).

A more comprehensive study should distinguish voter fraud that could be prevented by a photo identification requirement from other types of fraud — such as absentee voting and stuffing ballot boxes — and obtain statistics on the factors that led law enforcement to prosecute fraud. The study would demand significant resources because it would require that researchers interview and pour over the records of local district attorneys and election boards.

Hard data on investigations, allegations, charges, pleas, and prosecutions is important because it quantifies the amount of fraud officials detect. Even if prosecutors vigorously pursue voter fraud, however, the number of fraud cases charged probably does not capture the total amount of voter fraud. Information on official investigations, charges, and prosecutions should be supplemented by surveys of voters and a comparison of voting rolls to death rolls.

2. *Random Surveys of Voters*

Random surveys could give insight about the percentage of votes cast fraudulently. For example, political scientists could contact a statistically representative sampling of 1,000 people who purportedly voted at the polls in the last election, ask them if they actually voted, and confirm the percentage who are valid voters. Researchers should conduct the survey soon after an election to locate as many legitimate voters as possible with fresh memories.

Because many respondents would perceive voting as a social good, some who did not vote might claim that they did, which may underestimate the extent of fraud. A surveyor might mitigate this skew through the framing of the question (“I’ve got a record that you voted. Is that true?”).

Further, some voters will not be located by researchers and others will refuse to talk to researchers. Photo identification proponents might construe these non-respondents as improper registrations that were used to commit voter fraud.

Instead of surveying all voters to determine the amount of fraud, researchers might reduce the margin of error by focusing on a random sampling of voters who signed affidavits in the three states that request photo identification but also allow voters to establish their identity through affidavit—Florida, Louisiana, and South Dakota. In South Dakota, for example, only two percent of voters signed affidavits to establish their identity. If the survey indicates that 95 percent of those who signed affidavits are legitimate voters (and the other 5 percent were shown to be either fraudulent or were non-responsive), this suggests that voter fraud accounts for, at the maximum, 0.1 percent of ballots cast.

The affidavit study, however, is limited to three states, and it is unclear whether this sample is representative of other states (the difficulty may be magnified in Louisiana in the aftermath of Hurricane Katrina’s displacement of hundreds of thousands of voters). Further, the affidavit study reveals information about the amount of fraud in a photo identification state with an affidavit exception—more voter fraud may exist in a state that does not request photo identification.

3. *Examining Death Rolls*

A comparison of death rolls to voting rolls might also provide an estimate of fraud.

Imagine that one million people live in state A, which has no documentary identification requirement. Death records show that 20,000 people passed away in state A in 2003. A cross-referencing of this list to the voter rolls shows that 10,000 of those who died were registered voters, and these names remained on the voter rolls during the November 2004 election. Researchers would look at what percentage of the 10,000 dead-but-registered people who “voted” in the November 2004 election. A researcher should distinguish the votes cast in the name of the dead at the polls from those cast

absentee (which a photo identification requirement would not prevent). This number would be extrapolated to the electorate as a whole.

This methodology also has its strengths and weaknesses. If fraudulent voters target the dead, the study might overestimate the fraud that exists among living voters (although a low incidence of fraud among deceased voters might suggest that fraud among all voters is low). The appearance of fraud also might be inflated by false positives produced by a computer match of different people with the same name. Photo identification advocates would likely assert that the rate of voter fraud could be higher among fictitious names registered, and that the death record survey would not capture that type of fraud because fictitious names registered would not show up in the death records. Nevertheless, this study, combined with the other two, would provide important insight into the magnitude of fraud likely to exist in the absence of a photo identification requirement.

MAJOR VOTE BUYING CASES SUMMARY

Between 2001 and 2006, allegations and convictions for vote buying and conspiracies to buy votes were concentrated in three states: Illinois, West Virginia and Kentucky.

In East St. Louis, Illinois, nine individuals, including a former city council member and the head of the local Democratic Party, Charles Powell, Jr., were convicted or pled guilty to vote buying and conspiracy to commit election fraud during the 2004 general election. The government's conspiracy case was almost entirely based on taped conversations in which the defendants discussed buying votes for \$5 and whether this would be adequate. Federal prosecutors alleged that the vote buying was financed with \$79,000 transferred from the County Democratic Party shortly before the election, although county officials have not been charged. Four defendants were convicted of purchasing or offering to purchase at least one vote directly, while Democratic Party chairman was only convicted of conspiracy.¹ Earlier, three precinct officials and one precinct worker pled guilty to buying votes for \$5 or \$10 in that same election.²

Eastern Kentucky has witnessed a series of vote buying cases over the last several years. The most recent revolved around Ross Harris, a Pike County political fundraiser and coal executive, and his associate Loren Glenn Turner. Harris and Turner were convicted in September 2004 of vote buying, mail fraud, and several other counts.³ Prosecutors alleged Harris and Turner conspired to buy votes and provided the necessary funds in an unsuccessful 2002 bid for Pike County district judge by former State Senator Doug Hays. Harris supplied nearly \$40,000, Turner laundered the money through straw contributors, and the cash was then disbursed in the form of \$50 checks ostensibly for 'vote hauling', the legal practice of paying campaign workers to get voters to the polls which is notorious as a cover for buying votes.⁴ Harris attempted to influence the race on behalf of Hays in order to get revenge on Hays' opponent for a personal matter.⁵

A grand jury initially indicted 10 individuals in connection with the Harris and Turner case, including Hays and his wife, and six campaign workers. Of the remaining defendants, only one, Tom Varney, also a witness in the Hays case, pled guilty. The others were either acquitted of vote buying charges or had vote buying charges dropped.⁶ Prosecutors have announced that their investigation continues into others tied to Harris and may produce further indictments.

The Harris case follows a series of trials related to the 1998 Knott County Democratic primary. Between 2003 and 2004, 10 individuals were indicted on vote buying charges, including a winning candidate in those primaries, Knott County judge-executive Donnie Newsome, who was reelected in 2002. In 2004 Newsome and a supporter were sent to jail and fined. Five other

¹ "Five convicted in federal vote-fraud trial" Associated Press, June 30, 2005; "Powell gets 21 months" Belleville News-Democrat, March 1, 2006.

² "Four Plead Guilty To Vote-Buying Cash Was Allegedly Supplied By St. Clair Democratic Machine" Belleville News-Democrat, March 23, 2005.

³ "2 found guilty in pike county vote-fraud case; Two-year sentences possible," Lexington Herald Leader, September 17, 2004.

⁴ "Jury weighing vote-fraud case," Lexington Herald Leader, September 16, 2004.

⁵ "Pike Election Trial Goes To Jury" Lexington Herald Leader, January 1, 2006.

⁶ "Former state senator acquitted of vote buying," Lexington Herald Leader, November 2, 2004.

defendants pled guilty to vote buying charges, and three were acquitted. The primary means of vote buying entailed purchasing absentee votes from elderly, infirm, illiterate or poor voters, usually for between \$50 and \$100. This resulted in an abnormally high number of absentee ballots in the primary.⁷ Indictments relating to that same 1998 primary were also brought in 1999, when 6 individuals were indicted for buying the votes of students at a small local college. Five of those indicted were convicted or pled guilty.⁸

Absentee vote buying was also an issue in 2002, when federal prosecutors opened an investigation in Kentucky's Clay County after an abnormal number of absentee ballots were filed in the primary and the sheriff halted absentee voting twice over concerns.⁹ Officials received hundreds of complaints of vote-buying during the 2002 primary, and state investigators performed follow up investigations in a number of counties, including Knott, Bell, Floyd, Pike, and Maginoff.¹⁰ No indictments have been produced so far.

So far, relatively few incidents of vote-buying have been substantially identified or investigated in the 2004 election. Two instances of vote buying in local 2004 elections have been brought before a grand jury. In one, a Casey County man was indicted for purchasing votes in a local school board race with cash and whiskey.¹¹ In the second, the grand jury chose not to indict an individual accused of offering to purchase a teenager's vote on a local proposal with beer.¹²

An extensive vote buying conspiracy has also been uncovered in southern **West Virginia**. The federal probe, which handed down its first indictment in 2003, has yielded more than a dozen guilty pleas to charges of vote buying and conspiracy in elections since the late 1980s. As this area is almost exclusively dominated by the Democratic Party, vote-buying occurred largely during primary contests.

The first phase of the probe focused on Logan County residents, where vote buying charges were brought in relation to elections in 1996, 2000, 2002 and 2004. In an extraordinary tactic, the FBI planted the former mayor of Logan City, Tom Esposito, as a candidate in a state legislative race. Esposito's cooperation led to guilty pleas from the Logan County Clerk, who pled guilty to selling his vote to Esposito in 1996,¹³ and another man who took money from Esposito for the purpose of vote buying in 2004.¹⁴

Guilty pleas were also obtained in connection with former county sheriff Johnny Mendez, who pled guilty to buying votes in two primary elections in order to elect candidates including

⁷ "Knott County, KY., Judge Executive sentenced on vote-buying conspiracy charges," Department of Justice, March 16, 2004.

⁸ "6 men accused of vote fraud in '98 Knott primary; Charges include vote buying and lying to FBI"

⁹ "Election 2002: ABSENTEE BALLOTING; State attorney general's office investigates voting records in some counties" The Courier-Journal, November 7, 2002.

¹⁰ "Election 2002: Kentucky; VOTE FRAUD; Investigators monitor 17 counties across state" The Courier-Journal, November 6, 2002.

¹¹ "Jury finds man guilty on vote-buying charges" Associated Press, November 11, 2005.

¹² "Man in beer vote case files suit" The Cincinnati Enquirer, March 17, 2005.

¹³ "Two plead to vote fraud; Logan clerk sold vote; politician tried to buy votes" Charleston Gazette, December 14, 2005.

¹⁴ "Logan man gets probation in vote-fraud scandal" Charleston Gazette, March 1, 2006.

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himself. In 2000, with a large amount of funding from a prominent local lawyer seeking to influence a state delegate election for his wife, Mendez distributed around \$10,000 in payments to voters of \$10 to \$100. Then, in the 2004 primary, Mendez distributed around \$2,000 before his arrest.¹⁵ A deputy of Mendez', the former Logan police chief, also pled guilty to a count of vote buying in 2002.¹⁶

Prosecutors focusing on neighboring Lincoln County have alleged a long-standing vote-buying conspiracy extending back to the late 1980s. The probe identified Lincoln County Circuit Clerk Greg Stowers as head of a Democratic Party faction which routinely bought votes in order to maintain office. Stowers pled guilty in December 2005 to distributing around \$7,000 to buy votes in the 2004 primary. The Lincoln County Assessor, and Stowers' longtime political ally, Jerry Allen Weaver, also pled guilty to conspiracy to buy votes.¹⁷ These were accompanied by four other guilty pleas from party workers for vote buying in primaries. While most specific charges focused on vote buying in the 2004 primary, defendants also admitted buying votes as far back as the 1988, 1990, and 1992 primaries.

The leading conspirators would give party workers candidate slates and cash, which workers would then take to the polling place and use to purchase votes for amounts between \$10 and \$40 and in one instance, for liquor. Voters would be handed the slate of chosen candidates, and would then be paid upon exiting the polling place. In other cases, the elected officials in question purchased votes in exchange for non-cash rewards, including patronage positions, fixed tickets, favorable tax assessments, and home improvements.¹⁸

The West Virginia probe is ongoing, as prosecutors are scrutinizing others implicated during the proceedings so far, including a sitting state delegate, who may be under scrutiny for vote buying in a 1990 election, and one of the Lincoln county defendants who previously had vote buying charges against him dropped.¹⁹

¹⁵ "Mendez confined to home for year Ex-Logan sheriff was convicted of buying votes" Charleston Gazette, January 22, 2005.

¹⁶ "Ex-Logan police sentenced for buying votes" Associated Press, February 15, 2005.

¹⁷ "Clerk says he engaged in vote buying" Charleston Gazette, December 30, 2005.

¹⁸ "Lincoln clerk, two others plead guilty to election fraud" Charleston Daily Mail, December 30, 2005.

¹⁹ "Next phase pondered in federal vote-buying probe" Associated Press, January 1, 2006.

Nexis Articles Analysis

Note: The search terms used were ones agreed upon by both Job Serebrov and Tova Wang and are available upon request. A more systematic, numerical analysis of the data contained in the Nexis charts is currently being undertaken. What follows is an overview.

Recommendation: In phase 2, consultants should conduct a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

Overview of the Articles

Absentee Ballots

According to press reports, absentee ballots are abused in a variety of ways:

1. Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters
2. Workers for groups and individuals have attempted to vote absentee in the names of the deceased
3. Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

Voter Registration Fraud

According to press reports, the following types of allegations of voter registration fraud are most common:

1. Registering in the name of dead people
2. Fake names and other information on voter registration forms
3. Illegitimate addresses used on voter registration forms
4. Voters being tricked into registering for a particular party under false pretenses

5. Destruction of voter registration forms depending on the party the voter registered with

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported on included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota and Wisconsin.

Voter Intimidation and Suppression

This is the area which had the most articles in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places.
- Improper demands for identification
- Poll watchers harassing voters
- Poll workers being hostile to or aggressively challenging voters
- Disproportionate police presence
- Poll watchers wearing clothes with messages that seemed intended to intimidate
- Insufficient voting machines and unmanageably long lines

Although the incidents reported on occurred everywhere, not surprisingly, many came from "battleground" states. There were several such reports out of Florida, Ohio and Pennsylvania.

"Dead Voters and Multiple Voting"

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations

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Nexis Articles - Absentee Balloting

City/County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Source 1	Source 2	Source 3	Resolution of incident / allegation	Source of Resolution 1	Source of Resolution 2
Phillips	Arkansas	2-Nov-02	primary	The sanitation director for Helena, the Phillips County seat, admitted in court to illegally casting more than 25 absentee ballots in the Democratic primary in May.	Arkansas Democrat-Gazette						
South Gate	California	28-Jan-03	Treasurer and city council recall	Supporters of the recall, which is being led by the city's two police unions, say city employees have been illegally filling out absentee ballots against the recall.	Los Angeles Times						
Bridgeport	Connecticut	6-Sep-02		Election officials found an absentee ballot application for someone who is dead	Connecticut Post						
Bridgeport and New Haven	Connecticut	4-Nov-02	probate judge	FBI is investigating potential absentee ballot fraud in Bridgeport Democratic primary and two men face absentee ballot charges involving 2 New Haven primaries	Connecticut Post						
Hartford	Connecticut	12-Aug	state legislature	former state representative is charged with seven counts of absentee ballot fraud for absentee ballot coercion in a particular apartment complex	Hartford Courant						
Bridgeport	Connecticut	3-Dec-03	town committee	The elections commission wants four brothers to be charged with fraudulent voting for allegedly submitting illegal absentee ballots in the March 2002 Democratic Town Committee primary. The commission alleges that none of the brothers lived in Bridgeport when they voted in those city elections.	Connecticut Post						
Smyrna	Delaware	3-Aug-05	town	A challenger to the mayor who lost by 2 votes is suing the mayor for personally delivering absentee ballots to minority residents, some of whom were not eligible to vote	The News Journal						
Winter Garden	Florida	5-Mar-02	city commissioner	Four are charged with forging names on absentee ballots	AP						
Volusia	Florida	3-Oct-03	city	Elections officials inquire into 43 absentee ballot request forms with the wrong date of birth and 3 requests with forged signatures	Orlando Sentinel						
Winter Haven	Florida	6-Jan-04	town	criminal complaint filed against woman for voting by absentee ballot when she did not live in the district	Polk Online						

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 Nexis Articles - Absentee Balloting

Hialeah	Florida	21-Mar-04	city council	Miami-Dade public corruption detectives fanned across Hialeah on Friday, questioning employees of the city's public housing agency, as well as friends and relatives of politicians aligned with Mayor Raul Martinez. Sources close to the investigation say those interviewed were asked about their alleged handling of absentee ballots gathered from voters - many of them elderly - in the city's public housing units.	Miami Herald					A special state prosecutor said he found no evidence of election fraud after a yearlong investigation of absentee voting at the Hialeah Housing Authority during that city's 2003 elections	Miami Herald, May 11, 2005	
Orlando	Florida	5-Mar-05	mayoral	A grand jury is investigating the possible mishandling of absentee ballots by a minority voting advocate who has worked for many campaigns	Orlando Sentinel					All charges are dropped. Democrats allege the whole case was politically motivated; Florida prosecutors dropped a case charging the mayor with paying a campaign worker to collect absentee ballots. Three others indicted on the same charge were also cleared.	April 21, 2005 Orlando Sentinel	April 21, 2005, The New York Times
Cook	Illinois	15-Mar-02	state	ACORN alleges that a man went to a senior citizen home and voted the seniors' absentee ballots	Chicago Sun-Times							
Calumet City	Illinois	3-Sep-03	mayoral	A county judge threw out and reversed an election because of absentee coercion of disabled voters	Chicago Tribune							
Marion	Indiana	1-Nov-02	county	The county prosecutor is investigating absentee ballots in which signatures don't match, voter's names were misspelled, and correction fluid was used to change te address	Indianapolis Star							
Madison	Indiana	29-Apr-03	primary	State police are investigating whether Democratic primary absentee ballots were delivered to nursing homes that traditionally vote Republican	Herald Bulletin							
Lake	Indiana	11-Jul-03	town	Allegations are made of absentee ballots from voters who moved and forged signatures by one person. Case will be heard by a county judge	Northwest Indiana News							
Porter	Indiana	31-Mar-04	town	Elections board investigates allegations that two ineligible voters voted by bsentee ballots	Northwest Indiana News							
Chicago	Indiana	23-Jun-04	mayoral	The Indiana Supreme Court is considering whether to order a special mayoral election. The losing candidate claims he would have won if not for hundreds of fraudulent absentee votes cast for his opponent, including some cast on behalf of dead voters	AP							

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Nexis Articles - Absentee Balloting

Anderson	Indiana	11-Dec-04	mayoral	The longtime Democratic Party chairman in Madison County is accused of illegally delivering absentee ballots cast by two Anderson residents. Another man is accused of 17 Class D felony charges for allegedly registering absentee voters, then telling them how to vote and picking up their ballots. A woman is accused of completing an absentee ballot in September 2003 that listed an address where she did not live.	Indianapolis Star						
East Chicago	Indiana	August 6, 2003, August 8, 2003	mayoral primary	It is alleged that city workers were asked to vote absentee, acquire absentee applications, and given paid election day positions for bringing in absentee votes	Northwest Indiana News			four people indicted, one for receiving absentee ballots for people ineligible to vote, one for failing to appear before the grand jury, and two for voter fraud and lying to the grand jury; county judges tosses out 155 absentee ballots but this does not change the election outcome; DOJ begins investigating	WISH TV, November 18, 2003; Northwest Indiana Times, January 21, 2004		Post Tribune, December 15, 2005: two Democratic precinct committeement and three people with ties to a city contractor were charged with pressuring acquaintances to fill out absentee ballots. This brings the total number of people charged to 22 (See East Chicago summary)
	Maine	13-Feb-04	state house	Police have begun investigating allegations that elderly voters were pres-sured into casting absentee ballots for a Green Independent candidate in Maine's special election. Chief Roger Beaupre said Thursday his department has received 10 complaints of voter intimidation from elderly voters who were told votes for candidates other than Green Independent candidate Dorothy Lafortune did not count.	AP						
River Rouge	Michigan	4-Apr-01	mayoral	state police investigating absentee coercion in a senior apartment building	Yahoo News						
Detroit	Michigan	8-Nov-05	mayoral	A lawsuit alleges the City Clerk's assistants have allowed voters to fill out ballots in group settings, didn't sign their names on ballot envelopes and advertised their services in nursing homes. She also sent 130,000 unsolicited absentee ballot applications defying a court order.	Detroit Free Press			County Circuit Court judge ruled the Clerk violated the law; There is an election contest and a federal investigation involving irregularities with absentee ballots.	November 9, 2005 Detroit Free Press; November 24, 2005 Detroit Free Press		
Houston	Mississippi	10-Nov-05	mayoral	Candidate files a complaint alleging 59 absentee ballots are questionable. He produced a letter from two elderly absentee voters saying they were given plates of food in exchange for allowing his opponent to fill out their ballots.	AP						

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Nexis Articles - Absentee Balloting

	Missouri	19-Sep-04	gubernatorial	The state Democratic Party accused Republicans of coercion when they asked county clerks to send the names of people who had requested absentee ballots	AP							
East St. Louis	Missouri	5-Jan-05	city	investigations by the state attorney and the FBI into unspecified absentee ballot fraud	Post Dispatch							
Tonopah	Nevada	23-Oct-02	local general and primary election	The FBI investigates questionable absentee ballot requests	Pahrump Valley Times							
Las Vegas	Nevada	26-Apr-03	assembly	Man is indicted because he voted other people's ballots using absentee voter forms for people who lived outside the district.	AP							
Atlantic City	New Jersey	31-Oct-01	Mayoral	Mayor Whelan's campaign has alleged that street operatives for the mayor's challenger, Councilman Lorenzo Langford, tricked voters into requesting absentee ballots and then went to their homes to bully them into filling the ballots out for Langford. The Whelan campaign has also alleged that Langford has stockpiled absentee ballots to fill out fraudulently. The Langford campaign yesterday denounced Whelan's actions as a means of suppressing voter rights and said it would file a federal civil-rights lawsuit this week.	Philadelphia Inquirer							
Palisades Park	New Jersey	6-Nov-02		The Deputy Attorney General said in a court filing that the prosecutor is investigating four types of irregularities: "1) improprieties in the manner in which voters requested absentee ballots; 2) instances where the voter has stated that they received assistance in voting but that fact is not noted on the voter certification; 3) instances where the absentee ballot was de-livered to the Board of Elections by a person other than the one to whom the voter gave the ballot; 4) instances where the voter gave an unmarked ballot to another person."	The Record				276 absentee ballots from the 2002 election in Palisades Park are still impounded in the office of Patricia DiCostanzo, the Bergen County superintendent of elections.	October 4, 2004, The Record		
Atlantic City	New Jersey	9-Jul-03	county primary	Board of elections requests an inquiry into alleged forged absentee ballots	Atlantic County News							
Passaic	New Jersey	22-Sep-04	county	The FBI is investigating charges that voters targetted by a Democratic campaign had their signatures forged or had been pressured or misled into voting absentee	Heral News (Passaic)							

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 Nexis Articles - Absentee Balloting

	New Jersey	4-Oct-04		In the city of Passaic, three dozen voters claimed they'd been victims of absentee ballot fraud in 2003.	The Record							
Albany County	New York	8-Mar-04	special primaries	131 absentee ballots were delivered by a ward leader, leading to vague allegations of coercion. All absentee ballots and machines impounded under a court order	Albany Times Union							
Albany County	New York	10-Mar-04	county legislature	One person filled in more than 140 signed absentee ballot applications, and there were other administrative errors in absentee ballot distribution and return. The candidates made a deal before the judge ruled on the case to have a special election; the absentee ballots are not counted	Albany Times Union							
Haskell	Oklahoma	7-Nov-02	district attorney	An absentee ballot scandal is being investigated in Haskell County, where one man allegedly admitted notarizing 42 absentee ballots without having the voters present while another man helped him, the District Attorney said.	Daily Oklahoman							
Providence	Rhode Island	23-Aug-02	mayoral	Elderly woman says strangers coerced her into giving them her ballot	Providence Journal-Bulletin							
Senate District 30	South Carolina	27-Sep-04	state senate primary	A person with connections to the Williams campaign nicknamed "The Voter Man" convinced elderly voters, some living in residential care facilities, to fill out absentee ballot registration forms. Some say they never received a ballot, even though records indicate a ballot was cast in their names. * At least one staff member at a Mullins care facility said non-communicative Alzheimer's patients were coaxed into casting absentee ballots. * Another person with ties to the Williams campaign turned in nearly 60 absentee ballots to election officials, many from elderly voters. While not technically illegal, the volume of absentee votes raised eyebrows within the Norwood campaign. As a result of suspected fraud the party ordered a new election and the cases are being criminally investigated.	The State							

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Nexis Articles - Absentee Balloting

	South Dakota	20-Oct-02	statewide	several counties forward questionable absentee ballot requests	Angus Leader				October 25, 2002: Red Earth Villeda, a former Democratic contractor is investigated; October 27, 2002: State and federal agents target 25 South Dakota counties; October 31, 2002: no illegally cast ballots are found (see South Dakota summary)	Argus Leader		
Shannon	South Dakota	30-Oct-04	presidential	The prosecutor in Fall River County says he will investigate possible multiple voting by absentee ballot. The multiple ballots were cast by fewer than 10 people	AP							
Sioux Falls	South Dakota	2-Nov-04	senatorial	Three former Republican notary publics pled guilty to signing absentee ballots without witnessing the signatures. Three other former GOP workers are charged, as is one Daschle staff person accused of not being present for two notary applications. Officials say none of the incidents affected any votes	AP				A fourth former employee of the South Dakota Republican Party's get-out-the-vote operation has pleaded guilty to improperly notarizing absentee-ballot requests, and another who had pleaded not guilty will appear in court next week to change his plea. Six workers for the GOP Victory effort resigned last month after questions surfaced about some absentee-ballot applications collected at college campuses across the state. Charges were filed after officials said the workers notarized applications collected by other workers, violating a state law that requires notaries to witness documents being signed before they can give them their official seal.	November 4, 2004, Argus Leader		
Dallas	Texas	10-May-01	district council	Both candidates accuse the other manipulating the absentee ballot votes of senior citizens	Dallas Observer							
Dallas	Texas	16-May-01	city council	Several affidavits alleging mail-in voter fraud have been submitted to the Dallas County district attorney's office, according to election officials. But prosecutors have declined to comment about whether those allegations, or any others, would result in a criminal complaint.	Dallas Morning News				A voter fraud investigation has resulted in the indictment of a Dallas woman who is accused of filling out a mail-in ballot in May without the voter's permission, a Dallas prosecutor said Tuesday.	February 13, 2002, Fort-Worth Star Telegram		
Dallas	Texas	27-Jul-02	district council	A candidate for the council alleged three campaign workers spent Friday reviewing mail-in ballots and applications for the ballots and found at least 69 that they believe might have forged signatures on either document.	Fort Worth Star-Telegram							
Dallas	Texas	22-Apr-03	city council	A candidate submitted 12 absentee ballot applications with forged signatures. The DA is investigating.	Dallas Morning News							

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 Nexis Articles - Absentee Balloting

Hearne	Texas	18-Oct-03	municipal	Man fined and sentenced to five years probation for voting in the names of three dozen other people by absentee ballot. He is the fifth person to plead guilty to similar charges brought by a grand jury in August. 17 were indicted.	Houston Chronicle						
Hearne	Texas	28-Dec-03	mayoral	30 people were indicted for forged absentee ballot applications and sending in multiple absentee ballots	Star Telegram						
El Paso	Texas	12-Feb-04	water board	Several mail in ballot requests appeared to be filled out by the same person and a few were in the names of dead people. A precinct chairwoman was charged with four counts of tampering with government records	Assoc Press			Five people have been charged with sending in absentee ballot applications in the names of other people	2/13/2004, El Paso Times		
Hidalgo	Texas	3-Mar-04	miscellaneous, from congress to judge's race	Complaints were made to the Board of Elections against workers for several campaigns of irregularities concerning absentee ballots, including coercion of elderly voters, a complaint that someone requested an absentee ballot for a dead voter; four people said their ballots were already sealed when they received them, and a voter whose absentee ballot that was sent elsewhere	The Monitor						
Bexar	Texas	25-Mar-04	congressional	The names of 42 deceased people, most of whom lived on the South Side, appeared on applications for mail-in ballots that were submitted to election officials for the primaries. A computer at the Bexar County elections office flagged the applications and the district attorney's office is investigating. No ballots appear to have been sent to a dead person as a result of the applications, election officials have said. However, the applications were cited by Henry Cuellar - a Democratic candidate for the District 28 congressional seat who lost by 145 votes - as one of several concerns that persuaded him to call for a recount this week. The list of applicants includes next-door neighbors, people who never voted when they were alive, and two who died in 1988. All but one bear the deceased's correct voter registration number. Each had the correct address and voting precinct, and all indicated the voter was older than 65, which is one of the reasons individuals may obtain a mail-in ballot. But whoever filled out many of the applications didn't alter his or her hand	San Antonio Express-News						

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 Nexis Articles - Absentee Balloting

South San Antonio	Texas	23-May-04		Elderly voters complain of "vote brokering" whereby "coyotes" pressure them into voting by absentee ballot. Investigators have looked into this in the past, and there has only been one conviction of someone pressuring others to vote absentee.	San Antonio Express-News							
Robstown	Texas	27-May-04	school district	The District Attorney requested a recount of ballots because of many complaints of people filing mail-in ballots sent to homes of people who have died. One of the candidates says that in one instance a wife mailed in the ballot of her husband who just died, and another was a son's vote being mistaken for the father's because they had the same name.	Corpus Christi Caller-Times							
Falfurrias	Texas	11-Sep-04	city	After a May 26 recount, Jaime received 501 votes and Martinez wound up with 500 votes. In June, Martinez filed an election contest in district court claiming that "numerous co-conspirators" obtained votes by instructing the voters to cast their ballots for particular candidates. But a criminal investigation into voting violations started before voters cast the final ballots, according to a police report. So far, the criminal investigation has resulted in five felony and one misdemeanor indictments: Santiago Vela was indicted on a bribery charge; Armando Gonzalez, Vanessa Kiser and Roel Mireles were indicted on illegal voting charges; Magdalena Saenz was indicted on an unlawful delivery of a voting certificate charge. One woman, Mirna Quintanilla, was indicted on a misdemeanor charge for allegedly filling out a mail-in ballot for a voter without permission.	Corpus Christi Caller-Times							
Houston	Texas	11-Nov-05	mayoral	Candidate alleges that 64 of the 579 absentee ballots cast in the primary are questionable.	AP							
Hidalgo	Texas	2/26/2004, March 6, 2004	primary	Texas Rangers investigate tampering with mail ballots by "politiqueras"	The Monitor							

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EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Absentee Balloting

Gate City	Virginia	2-Aug-05	mayor	mayor is indicted on 37 felony counts of voter fraud for coercing choices on absentee ballots	Roanoke Times				The former mayor was arraigned in Scott County Circuit Court. He entered not guilty pleas to 18 charges of aiding and abetting in violating the absentee voting process, 17 charges of making a false statement on an absentee ballot application, and two charges of conspiracy. Authorities say he targeted elderly and unsophisticated voters, pressuring them to give false reasons for voting absentee and sometimes filling out their ballots himself.	8/17/2005, Roanoke Times			
Milwaukee	Wisconsin	5-Mar-03	county board recall	A police handwriting expert labeled signatures on 60 absentee ballot envelopes suspicious and elections officials and the DA questioned 36 more. The 96 are among 162 that were distributed to 5th District voters by the African American Coalition for Empowerment. The group had residents agree to ask the city to send absentee ballots to their offices rather than directly to the voters. The group then went to the homes, witnessed the votes and returned the ballots.	Milwaukee Journal Sentinel								
Milwaukee	Wisconsin	15-Jan-04	county recall	A voting rights activist was convicted of three felony counts stemming from his management of an absentee ballot campaign. Although evidence suggested forgery and other mischief, the case turned on one voter registration card. The voter had his signature forged by his girlfriend, and the activist had signed the form as a deputy registrar.	Milwaukee Journal Sentinel								
Milwaukee	Wisconsin	20-Feb-04	county recall	One person is convicted for forging absentee ballots	Milwaukee Journal Sentinel								

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Report Puts Election Fraud On Front Burner

USA Today published a controversial draft report from the Election Assistance Commission that suggests voter fraud is "less of a problem than is commonly described in political debate." The controversy lies in the fact that the report has remained under wraps since mid-May, and a final report isn't due until after the election.

However, the issue of "illegal voting" is a hot button for many politicians this fall. For example, in September the House of Representatives passed a bill that would require voters to show a valid photo identification in federal elections.

The angst and gnashing of teeth over the report is misplaced. Not only is it a draft report, it's a *poor* draft. The authors cite interviews with unnamed "experts" ... report results of Lexis-Nexis searches of news reports ... and have a literature review that ignores a body of peer-reviewed research which would have squashed one of the cited fears (voting by mail).

Their analysis of news reports suggests that fraud involving absentee votes is an area of abuse. The authors close that section by saying: "Interestingly, there were no [news] articles regarding Oregon, where the entire system is vote by mail."

There are at least three peer-reviewed articles analyzing Oregon's vote-by-mail system. I found them in a five-minute search. This research rebuts the claim made in the press -- and echoed without analysis in the report -- that absentee voting is a high-risk. Not one peer-reviewed paper is cited in the EAC draft report, but that research suggests why there might be no news articles claiming fraud. What a surprise.

If this had been a final report, I'd be writing the government, demanding that they get our money back.

Oh, and like just about everything having to do with HAVA, it's late. The law was passed in 2002. It's four years later, and they still haven't done this research. But they can throw buckets of money at the states for voting technology without good systems, standards or voter-verified ballots.

RECOMMENDATIONS FOR FURTHER EAC ACTIVITY ON VOTER FRAUD AND INTIMIDATION

Time and resource constraints prevented the consultants from interviewing the full range of participants in the *electoral* process. As a result, we recommend that *in the next phase of this project, further interviews be conducted. In particular, a greater sampling of state and local election officials from different parts of the country should be interviewed. These individuals have first hand information and experience in the operation of elections.* [words removed]

We also recommend that in the next phase interviews be conducted with people in law enforcement, specifically Federal District Election Officers (“DEOs”)¹ and local district attorneys and attorneys defending those accused of election crimes or civil violations. In many instances it is the local district attorney who will investigate election fraud and suppression complaints. Finally, attorneys who defend people accused of election crimes will have a different perspective on how the system is working to detect, prevent, and prosecute election fraud.

The Nexis search conducted for this phase of the research was based on a list of search terms agreed upon by both consultants. Thousands of articles were reviewed and hundreds analyzed. Many of the articles contain allegations of fraud or intimidation. Similarly, many of the articles contain information about investigations into such activities or even charges brought. However, without being able to go beyond the search [word removed] terms, we could not determine whether there was any *action taken* regarding the allegations, investigation or charges brought. *Consequently*, it is impossible to know if the article is just reporting on “talk” or what turns out to be a serious affront to the system. We recommend that follow up Nexis research be conducted to *establish* what, if any, resolutions or further activity there was in each case. [sentence removed]

¹ The Public Integrity Section of the Criminal Division of the Department of Justice has all of the 93 U.S. Attorneys appoint Assistant U.S. Attorneys to serve as DEOs for two years. DEOs are required to screen and conduct preliminary investigations of complaints, in conjunction with the FBI and PIN, to determine whether they constitute potential election crimes and should become matters for investigation; oversee the investigation and prosecution of election fraud and other election crimes in their districts; coordinate their district’s (investigative and prosecutorial) efforts with DOJ headquarters prosecutors; coordinate election matters with state and local election and law enforcement officials and make them aware of their availability to assist with election-related matters; issue press releases to the public announcing the names and telephone numbers of DOJ and FBI officials to contact on election day with complaints about voting or election irregularities and answer telephones on election day to receive these complaints; and supervise a team of Assistant U.S. Attorneys and FBI special agents who are appointed to handle election-related allegations while the polls are open on election day.

Similarly, many allegations are made in the reports and books that we analyzed and summarized. Those allegations are often not substantiated in any way and are inherently time limited by the date of the writing. Despite this, various interested parties frequently cite such reports and books as evidence of fraud or intimidation. *Therefore, we recommend as a follow up to the literature review, an analysis of the resolution, if any, of specific instances of fraud and intimidation cited in the books and reports reviewed in the first phase.*

In the first phase, we read and analyzed over 44,000 cases. Unfortunately, few of these were found to be on point. We therefore recommend that in the second phase, research should be concentrated on a national sampling of state district court level electoral cases. Often the district courts settle important issues that are not subsequently appealed. We believe that there could be a storehouse of information regarding vote fraud and intimidation in these cases.

We believe that in the second phase of this project, there should be a sampling of local newspapers from around the country to analyze for articles on voter fraud and voter intimidation. This will lead to a better idea of problems that occur on city and county levels that are often not reported statewide. We also recommend that there be a sampling of state electoral laws (including criminal penalty provisions), in order to aid in the development of model legislation that would address voter fraud and intimidation.

During the 2004 election and the statewide elections of 2005, the University of Pennsylvania led a consortium of groups and researchers in conducting the MyVote1 Project. This project involved using a 1-800 voter hotline where voters could call for poll location, be transferred to a local hotline, or leave a recorded message with a complaint. In 2004, this resulted in over 200,000 calls received and over 56,000 calls recorded complaints. The researchers in charge of this project have done a great deal of work to parse and analyze the data collected through this process, including *reviewing* the audio messages and categorizing them by the nature of the complaint. These categories include registration, absentee ballot, poll access, ballot/screen, coercion/intimidation, identification, mechanical, *and* provisional (ballot). We recommend that *the second phase research* include making full use of this data with the cooperation of the project leaders. While perhaps not a *full* scientific survey (given the self-selection of the callers), the information [*words removed*] should provide a good deal of insight into the problems voters experienced, especially those in the nature of intimidation or suppression.

Although according to a recent GAO report the Voting Section of the Civil Rights Division of the Department of Justice tracks complaints of voter intimidation in a variety of ways, the Section was extremely reluctant to provide the consultants with useful information. Further attempts should be made to obtain relevant data. This includes the telephone logs of complaints the Section keeps and information from the database – the Interactive Case Management (ICM) system – the Section maintains on complaints received and the corresponding action taken. We also recommend that further research include a review and analysis of the observer and monitor field reports from Election Day

that must be filed with the Section.

Similarly, the consults believe it would be useful for any further research to include a review of the reports that must be filed by every DEO to the Public Integrity Section of the Criminal Division of the Department of Justice. As noted above, the DEOs play a central role in receiving reports of voter fraud and investigating and pursuing them. Their reports *[words removed]* would likely provide tremendous insight into what actually transpired during the last several elections. Where necessary, information could be redacted or kept confidential.

The consultants also believe it would be useful for any further activity in this area to include attendance at the next Ballot Access and Voting Integrity Symposium.² According to the Department, *[words removed]* DEOs are required to attend annual training conferences *centered on combating* election fraud and voting rights abuses. These conferences *[word removed]* sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, feature presentations by civil rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. As a result of these conferences, there *has been* a nationwide increase in Department expertise relating to the prosecution of election crimes and the enforcement of voting rights.

Included in this report is a summary of various methodologies political scientists and others suggested to measure voter fraud and intimidation. While we note the skepticism of the Working Group in this regard, we nonetheless recommend that in order to further the mission of providing unbiased data, further activity in this area include an academic institution and/or individual that focuses on sound, statistical methods for political science research.

Finally, we recommend that *phase two project* researchers review federal laws to explore ways to make it easier to impose either civil or criminal penalties for acts of intimidation that do not necessarily involve racial animus and/or a physical or economic threats.

According to Craig Donsanto, long-time director of the Public Integrity Section of the Criminal Division of the Department of Justice,

As with other statutes addressing voter intimidation, in the absence of any jurisprudence to the contrary, it is the Criminal Division's position that

² By attending the symposium researchers could learn more about the following:

How *DEOs* are trained, e.g. what they are taught to focus their resources on; How they are instructed to respond to various types of complaints; How information about previous elections and voting issues is presented; *and*, How the Voting Rights Act, the criminal laws governing election fraud and intimidation, the National Voter Registration Act, and the Help America Vote Act are described and explained to participants.

section 1973gg-10(1) applies only to intimidation which is accomplished through the use of threats of physical or economic duress. Voter "intimidation" accomplished through less drastic means may present violations of the Voting Rights Act, 42 U.S.C. § 1973i(b), which are enforced by the Civil Rights Division through noncriminal remedies.

Mr. Donsanto reiterated these points to us on several occasions, including at the working group meeting.

The second phase of this project should examine if *[words removed]* current laws *can* be revised or new laws *drafted* that would *address* voter intimidation that does not threaten the voter physically or financially, but rather threatens the voter's *tangible* right to vote *[words removed]*. Such *legislation* would *penalize* all forms of voter intimidation, *regardless of the motivation*. The law would *[word removed]* potentially cover *[words removed]* letters and postcards with *contain* language meant to deter voters from voting and pre-Election and Election Day *challenges* that are clearly *[words removed]* illegitimate *[word removed]*.

In the alternative to finding a way to *penalize* such behavior, researchers might examine ways *[words removed]* to deter and punish voter intimidation under *[word removed]* civil law. For example, there might be a private right of action created for voters or groups who have been subjected to intimidation tactics in the voting process. Such an action could be brought against individual offenders; any state or local actor where there is a *unchecked* pattern of repeated abuse *[words removed]*; and organizations that intentionally engage in intimidating practices. *Civil damage penalties and attorney fees should be included*. Another, more modest measure *[words removed]*, as has been suggested by Ana Henderson and Christopher Edley, *would be to bring* fines for violations under the Voting Rights Act *up to parity*. Currently, the penalty for fraud is \$10,000 while the penalty for acts to deprive the right to vote is \$5,000.

Department of Justice's Activities to Address Past Election-Related Voting Irregularities: General Accounting Office, October 14, 2004, GAO-04-1041R

The MyVote1 Project Final Report: Fels Institute of Government, University of Pennsylvania, November 1, 2005, Pg. 12

Department of Justice's Activities to Address Past Election-Related Voting Irregularities: General Accounting Office, October 14, 2004, GAO-04-1041R, p. 4. This same report criticizes some of the procedures the Section used for these systems and urged the Department to improve upon them in time for the 2004 presidential election. No follow-up report has been done since that time to the best of our knowledge.

Department Of Justice To Hold Ballot Access and Voting Integrity Symposium: U.S.

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Department of Justice press release, August 2, 2005.

Craig C. Donsanto, *Prosecution of Electoral Fraud Under United States Federal Law*, IFES Political Finance White Paper Series, 2006, p. 29.

Ana Henderson and Christopher Edley, Jr., *Voting Rights Act Reauthorization: Research-Based Recommendations to Improve Voting Access*, Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, University of California at Berkeley, School of Law, 2006, p. 29

014924

JURIST

Wednesday, October 11, 2006

Voter fraud reports overstated: US elections panel

Rob DeVries at 7:30 PM ET



[JURIST] The **US Election Assistance Commission** [official website] has **found little evidence to support claims of voter fraud** [status report, PDF] that have been driving the recent push for more stringent voter registration and **voter ID policies** [JURIST report], *USA Today* reported Wednesday. The report, released in May but just made public Wednesday, evaluated claims of fraud and voter intimidation and concluded:

There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that is impossible to show the extent to which it happens, but do point to instance in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud, although it may create the perception that vote fraud is possible. ...

Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression.

The report also concluded that absentee ballot fraud is far and away the most common type of voter fraud. The report also noted frustration from both sides of the political spectrum regarding failure of the **Department of Justice** [official website] to pursue voting fraud complaints. *USA Today* has **more**.

Several states have enacted laws requiring voters to present **photo ID** [JURIST news archive] at the polls in an effort to combat voter fraud, but courts have largely struck down these laws as unconstitutional. Most recently, the US Court of Appeals for the Ninth Circuit **issued an emergency injunction** [JURIST report] last week blocking Arizona officials from enforcing the state's voter ID law. Similar voter ID bills have recently been blocked in **Georgia** and **Pennsylvania** [JURIST reports], and the Missouri Supreme Court is currently **considering a challenge** [JURIST report] on that state's ID law.

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Suggested States:

Based on these factors, the 10 most useful states for the purposes of our inquiry include: Kentucky, California, Florida, Ohio, South Dakota, Wisconsin, Pennsylvania, Washington, Oregon, and Texas.

Timelines and General Workplan:

Below is a suggested timeframe in which we should accomplish Phase II of our election crimes research:

- Statement of Work developed by April 30, 2007
- Contractor to perform research identified by May 30, 2007
- Preliminary research findings delivered by August 15, 2007
- EAC report on initial findings on October 30, 2007

EAC Research Project for Study and Analysis of Election Crimes - Projected Time Line for 2007

<u>TASK</u>	<u>Jan</u>	<u>Feb</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug</u>	<u>Sept</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
Develop and Finalize RFP (EAC)	XX	-----	XX									
Issue RFP (per CR) (GovWorks)		XX										
Award Contract (Gov Works)			XX									
Paperwork Reduction Approval (EAC and Contractor)			XX	-----	-----	-----	-----	XX				
Phase I - all functions to prepare for data gathering phase (Contractor)			XX	-----	-----	-----	-----	XX				
Phase II - gather data, conduct interviews, etc. (Contractor)								XX	-----	-----	XX	
Phase III - analyze data, prepare first draft of report (Contractor)									XX	-----	-----	XX
EAC Due Diligence											XXX	
Finalize Report (Contractor)											XXXX	
EAC Adopts and Issues Reports												XX

014927

EAC ELECTION CRIMES STUDY: NEXT STEPS

Background: Phase I

Section 241 of the Help America Vote Act of 2002 (HAVA) requires the Election Assistance Commission (EAC) to conduct research on election administration issues including nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [Section 241(b)(6)]; and ways of identifying, deterring, and investigating methods of voter intimidation [Section 241(b)(7)].

The EAC initiated its study of election crimes in 2005, issuing its first report, "Election Crimes: An Initial Review and Recommendations for Future Study" in December 2006. The EAC adopted all or part of six of the 16 recommendations made by EAC consultants and the working group in the 2006 Report. These recommendations include:

- Surveying state chief election officers regarding administrative complaint processes mandated by Section 402 of HAVA,
- Surveying state election crime investigation units regarding complaints filed and referred to local or state law enforcement,
- Surveying state law enforcement and prosecutorial agencies regarding complaints and charges of voting crimes, and
- Analyzing survey data in light of state laws and procedures.

Next Steps: Phase II

As we look to initiate Phase II of this study and explore next steps for conducting a comprehensive survey of election crimes, the main aims of this phase should be:

- Identifying the methods by which states are capturing/identifying and investigating/prosecuting potential election crimes,
- Comparing the rates of election fraud in the context of these state laws/procedures, and
- Accessing the general scale of election crimes under various election systems and election crime enforcement methods.

Suggested Research Methodology:

In order to identify and assess the magnitude and quality of the election crime enforcement methods currently utilized by the states, it would be useful to select a sample of jurisdictions and survey election officials, district attorneys, and district election officers. This sample should be geographically and demographically diverse, juxtaposing states with substantial election crime allegations against those with limited election crime allegations.

Using the uniform definition of election crimes generated during Phase I, the survey would be designed to capture specific data regarding the existence and enforcement of election crimes. Three surveys would be conducted:

- A survey designed for the **state's chief election officials** would focus on election crime complaint procedures—assessing the volume and type of election crimes reported. Additionally, the survey would address the administrative complaint procedures required by Section 402 of HAVA in order to analyze the complaints that have been filed, investigated, and resolved via these procedures since January 1, 2004.
- A survey designed for **district attorneys** would focus on election crime investigations and prosecutions—analyzing the number and type of complaints, charges or indictments, and pleas or convictions.
- A survey of the **district election officers (DEOs)** would include a review of reports filed to the Public Integrity Section of the Criminal Division of the Department of Justice.

Criteria for States to be Sampled:

In order to get a broad assessment of the current election crime enforcement landscape, it would be helpful for our sample to include the following:

- States with multiple reports of **voter registration fraud** (e.g. California, Florida, Ohio, South Dakota, and Wisconsin),
- States with multiple reports of **voter intimidation and suppression**, (e.g. Florida, Ohio, and Pennsylvania),
- States with multiple reports of **deceptive practices** (e.g. Florida, Ohio, and Pennsylvania)
- States with multiple reports of **felons voting** (e.g. Washington and Wisconsin),
- States with multiple reports of **dead/multiple voters** (e.g. Florida)
- States with multiple reports of **election official fraud** (e.g. Washington and Texas), and
- States with multiple reports of **absentee ballot fraud** (e.g. Indiana, New Jersey, South Dakota, and Texas).

In order to balance these locations, we would also sample from states which do **not** have multiple reports of these election crimes (e.g. Oregon which has few, if any, reported election crimes despite the entire system being conducted by mail).

Additionally, the sample should include states which have the following election system characteristics:

- States with **longstanding statewide voter registration databases** (e.g. Kentucky).
- States with **election day registration** (e.g. Wisconsin),
- States with **election crime investigation units** (e.g. California, New York, and Florida), and
- States with **special election courts** (e.g. Pennsylvania).



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

EAC Requests Review of Voter ID, Vote Fraud and Voter Intimidation Research Projects

For Immediate Release
April 16, 2007

Contact: Jeannie Layson
Bryan Whitener
(202) 566-3100

WASHINGTON – U.S. Election Assistance Commission (EAC) Chair Donetta Davidson today issued a formal request to the commission’s inspector general to conduct a review of the commission’s contracting procedures, including a review of two recent projects focusing on voter identification and vote fraud and voter intimidation. The chair’s memo to the inspector general is attached.

“The actions taken by the commission regarding these research projects have been challenged, and the commissioners and I agree that it is appropriate and necessary to ask the inspector general to review this matter,” said EAC Chair Davidson.

Chair Davidson has requested that the inspector general specifically review the circumstances surrounding the issuance and management of the voter identification research project and the vote fraud and voter intimidation research project.

EAC is an independent bipartisan commission created by HAVA. It is charged with administering payments to states and developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines, accrediting voting system test laboratories and certifying voting equipment and serving as a national clearinghouse and resource of information regarding election administration. The four EAC commissioners are Donetta Davidson, chair; Rosemary E. Rodriguez, Caroline Hunter and Gracia Hillman.

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014930



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

EAC Statement Regarding Research and Contracting Policies

Commission to Review Internal Procedures

For Immediate Release
April 11, 2007

Contact: Jeannie Layson
Bryan Whitener
(202) 566-3100

WASHINGTON – The Help America Vote Act of 2002 (HAVA) directs the Election Assistance Commission (EAC) to serve as a national clearinghouse and resource by, among other things, conducting studies with the goal of improving the administration of federal elections. To fulfill this mandate, the EAC has entered into contracts with a variety of persons and entities. Reports adopted by the EAC, a bipartisan federal entity, are likely to be cited as authoritative in public discourse. Prior to the EAC's adopting a report submitted by a contractor, the EAC has the responsibility to ensure its accuracy and to verify that conclusions are supported by the underlying research.

The Commission takes input and constructive criticism from Congress and the public very seriously. We will take a hard look at the way we do business. Specifically, we will examine both the manner in which we have awarded contracts and our decision-making process regarding the release of research and reports. The EAC takes its mandates very seriously, and we will continue to move forward in a bipartisan way to improve the way America votes.

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014931



Congressman José E. Serrano
Representing the Sixteenth District of New York

PRESS RELEASE

MEDIA CONTACT:
Philip Schmidt (202)
225-4361

FOR IMMEDIATE
RELEASE:
Apr 11, 2007

SERRANO, HINCHEY URGE NON-PARTISANSHIP, GREATER TRANSPARENCY AT ELECTION ASSISTANCE COMMISSION

Washington, DC – April 11, 2007 – Today, Congressmen Maurice Hinchey (NY-22) and José E. Serrano (NY-16) urged the Election Assistance Commission (EAC) to act with greater transparency and without partisanship. The comments from the congressmen came as the House Appropriations Subcommittee on Financial Services and General Government released a draft version of an EAC report on voter fraud and intimidation that shows significant changes were made to the findings of outside experts before the final report was released.

“The EAC has an obligation to be forthright with the American people and operate transparently and in a non-partisan manner,” **said Congressman Hinchey, who requested the draft report from EAC Commissioner Donetta L. Davidson during a subcommittee hearing last month.** “The draft report was commissioned with taxpayer dollars upon a mandate from Congress so that we could learn more about voter fraud and intimidation. The need for this report is even more clear when we see the way in which the Bush administration is carrying out the electoral process and how this system is sliding towards corruption. In hiding a draft report from the public that is significantly different from the final version, the EAC has created a lot more questions than it has answered while stunting debate on the issue. In order for our democracy to function properly it is essential that our elections are free of any corruption and that includes ensuring that the EAC does not work to benefit one political party over the other. To achieve that goal we must have all the facts and opinions on the table, not just some of them. The EAC must never limit discussion and debate.”

“The EAC is charged with helping to ensure our elections are trustworthy and administered fairly,” **said Congressman Serrano, who is Chair of the Appropriations Subcommittee that oversees the EAC budget.** “I’m concerned if changes were made to the report on voter fraud because of partisan bias rather than impartial analysis. When you read the draft report side-by-side with the final version, it is clear that important conclusions of the experts who wrote the draft report were excluded from the final product. Among the excluded information is an analysis that undermines the notion that voter fraud is rampant.”

“I am concerned that the EAC did not publicly release the taxpayer-funded draft report, and I worry that political considerations may have played a role. We cannot have a politicized EAC, or one that yields to outside pressure. Our democracy, and the American people’s faith in it, is far more important than any short-term political advantage.”

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The draft report was written by outside experts under contract with the EAC. The final report was entitled "Election Crimes: An Initial Review and Recommendations for Future Study" and was issued on December 7, 2006.

The EAC is an independent bipartisan commission created by the 2002 Help America Vote Act in order to disburse funds to the states for the purchase of new voting systems, certify voting technologies, develop guidelines and serve as an information resource for election administration.

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014933

For Immediate Release

April 11, 2007

Hinchey, Serrano Urge Non-Partisanship, Greater Transparency at Election Assistance Commission

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014934

COMMITTEE ON THE JUDICIARY

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Congress of the United States
House of Representatives
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CO-CHAIR, CONGRESSIONAL HAZARDS CAUCUS

CO-CHAIR, BIPARTISAN CONGRESSIONAL REFUGEE CAUCUS

CO-CHAIR, CONGRESSIONAL VIETNAM CAUCUS

April 12, 2007

Chairwoman Donetta Davidson
 United States Election Assistance Commission
 1225 New York Avenue N.W., Suite 1100
 Washington, DC 20005

Dear Chairwoman Davidson:

As Chairwoman of the Committee on House Administration Subcommittee on Elections, which has oversight over the Election Assistance Commission, I was alarmed at what appears to be an emerging pattern by the EAC to hold off on publicly releasing reports as well as modifying reports that are released. Two recent instances have brought to light the increased politicalization of the EAC and this lack of transparency.

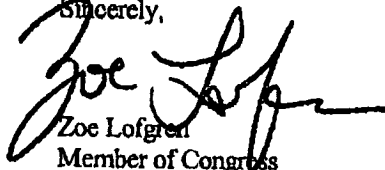
First, the House Appropriations Subcommittee on Financial Services and General Government released a draft version of an EAC report on voter fraud and intimidation that shows significant changes were made to the findings of outside experts before the final report was released. The EAC released report "Election Crimes: An Initial Review and Recommendations for Future Study" does not accurately reflect the research in the original report "Voting Fraud and Voter Intimidation."

Second, in addition to this report on voter fraud and intimidation, the EAC recently released a report by The Eagleton Institute of Politics at Rutgers University on voter identification. Again, the EAC did not endorse the report, citing methodological concerns, and only released it after pressure from Congress.

The EAC is charged with conducting nonpartisan research and to advise policy makers. How are we to rely on advice if instead of full and accurate reporting, we are provided an inaccurate modified version which negates clear evidence to the contrary in the original research? I am outraged that the election process is being threatened by a lack of transparency and limited discussion.

In order to preempt any further problems with the release of reports from the EAC, I request all versions of the Absentee Ballot report and the Military and Overseas report, as well as any other overdue reports, including supporting documents and research, be provided to my office by close of business Monday, April 16, 2007. These reports are overdue and I want to ensure that the delay is no way related to what appears to be an ongoing problem of politicalization of the EAC.

Sincerely,


 Zoe Lofgren
 Member of Congress

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed.	No	N/A	No

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights	No	N/A	No

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>violations of the Voting Rights Act. The parties filed cross--motions for summary judgment.</p>	<p>schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>minorities; as a result, minorities were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.			
Farrakhan v. Washington	United States Court of Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race-based vote denial	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.	No	N/A	No

014941

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.</p>	<p>The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim.			
Muntaqim v. Coombe	United States Court of Appeals for the Second Circuit	366 F.3d 102; 2004 U.S. App. LEXIS 8077	April 23, 2004	Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation	At issue was whether the VRA could be applied to N.Y. Elec. Law § 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the	No	N/A	No

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				of § 2 of the Voting Rights Act of 1965.	New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					district court's judgment was affirmed.			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	353 F.3d 1287; 2003 U.S. App. LEXIS 25859	December 19, 2003	Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.	The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a	No	N/A	No

014947

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violation of federal voting laws and remanded the matter to the district court for further proceedings.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court	No	N/A	No

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.</p>			
Johnson v. Governor of	United States Court of	405 F.3d 1214;	April 12, 2005	Plaintiff individuals sued	The individuals argued that the	No	N/A	No

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Fla.	Appeals for the Eleventh Circuit	2005 U.S. App. LEXIS 5945		defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.	racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw.	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief	Petitioner convicted felons were presently or had formerly been confined in state	No	N/A	No

014955

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 534		as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights.	prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners'			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.			
Rosello v. Calderon	United States District Court for the District of Puerto Rico	2004 U.S. Dist. LEXIS 27216	November 30, 2004	Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the	The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the	No	N/A	No

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				invalidity of absentee and split ballots in a gubernatorial election.	same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal constitutions. The			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law pursuant to federal</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.			
Woodruff v. Wyoming	United States Court of Appeals for the Tenth Circuit	49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060	October 7, 2002	Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10-106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon which relief could	The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing fee or filed a	No	N/A	No

014961

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				be granted and as frivolous.	motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who heard their cases.			

014962

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed.			
N.J. State Conf.--NAACP v. Harvey	Superior Court of New Jersey, Appellate Division	381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316	November 2, 2005	The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4--1(8) on the ground that it denied	The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey discriminated	No	N/A	No

014963

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>African--Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.</p>	<p>against African-Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting. Moreover, those</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed.			
King v. City of Boston	United States District Court for the District of Massachusetts	2004 U.S. Dist. LEXIS 8421	May 13, 2004	Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which	The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was	No	N/A	No

014965

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>excluded incarcerated felons from voting while they were imprisoned.</p>	<p>not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.			
Southwest Voter Registration Educ. Project v. Shelley	United States District Court for the Central District of California	278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413	August 15, 2003	Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be conducted without use of punch--card	Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch--card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the votes on the basis of race, in violation	No	N/A	No

014966

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				machines.	of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if plaintiffs could show disparate			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with plaintiffs' ex parte application for			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					temporary restraining order) was denied.			
Igartua--de la Rosa v. United States	United States Court of Appeals for the First Circuit	417 F.3d 145; 2005 U.S. App. LEXIS 15944	August 3, 2005	Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States.	The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were not, but were voting for electors.	No	N/A	No

014971

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.</p>			

014972

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be	No	N/A	No

014972

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				the alternative, a preliminary injunction.	deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible.			

014974

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters</p>			

014975

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied.			
Am. Ass'n of People with Disabilities v. Hood	United States District Court for the Middle District of Florida	310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615	March 24, 2004	Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida	The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired	No	N/A	No

014976

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p>	<p>voters. The voters were unable to vote using the system without third--party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p>			

014977

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non-disabled voters.</p>			

014973

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting system would			

014979

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the voters.</p>			

014980

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Troiano v. Lepore	United States District Court for the Southern District of Florida	2003 U.S. Dist. LEXIS 25850	November 3, 2003	Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary judgment.	The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow things down	No	N/A	No

014981

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also failed to state</p>			

1014982

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have audio</p>			

014982

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.			
Troiano v. Supervisor of Elections	United States Court of Appeals for the Eleventh Circuit	382 F.3d 1276; 2004 U.S. App. LEXIS 18497	September 1, 2004	Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in voting booths	The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The appellate court	No	N/A	No

014984

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p>	<p>agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio components</p>			

014985

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the accessible</p>			

014986

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed.			
Am. Ass'n of People with Disabilities v. Smith	United States District Court for the Middle District of Florida	227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373	October 16, 2002	Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state and local	Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In order to vote,	No	N/A	No

014987

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p>	<p>the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined with the federal</p>			

014988

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the court could not</p>			

014989

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs asserted that</p>			

01499C

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.</p>			

014991

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Powers v. Donahue	Supreme Court of New York, Appellate Division, First Department	276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644	December 5, 2000	Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names.	When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted.	No	N/A	No

014992

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the</p>			

014998

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed.</p>			
Goodwin v. St. Thomas--	Territorial Court of the	43 V.I. 89; 2000	December 13, 2000	Plaintiff political	Plaintiff alleged that defendants	No	N/A	No

014994

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
St. John Bd. of Elections	Virgin Islands	V.I. LEXIS 15		candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results	counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to			

014995

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				tabulated without such ballots.	establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot			

014990

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.</p>			
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala. LEXIS	December 9, 2005	The circuit court	The voters and the incumbent all	No	N/A	No

01499

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		214		<p>overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross-- appealed. In the meantime, the trial court stayed enforcement of its judgment pending</p>	<p>challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with</p>			

014993

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				resolution of the appeal.	their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to			

014999

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed.</p>			
Gross v. Albany County Bd. of Elections	Supreme Court of New York, Appellate Division, Third Department	10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y. App. Div. LEXIS	August 23, 2004	Appellant candidates appealed from a judgment entered by the supreme court, which partially	The candidates argued that the Board violated a federal court order regarding the election. The appellate court	No	N/A	No

015000

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		10360		<p>granted the candidates' petition challenging the method used by respondent Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County Legislator, 26th and 29th Districts, in a special general election required by the federal courts.</p>	<p>held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to</p>			

015001

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>identify their physician on their applications. A ballot was properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was</p>			

015002

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.			
Erlandson v. Kiffmeyer	Supreme Court of Minnesota	659 N.W.2d 724; 2003 Minn. LEXIS 196	April 17, 2003	Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief	The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly	No	N/A	No

015003

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican Party. The instant court granted review.</p>	<p>nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were</p>			

015004

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p>			

015008

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot.			
People v. Deganutti	Appellate Court of Illinois, First District, Third Division	348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill. App.	May 12, 2004	Defendant appealed from a judgment of the circuit court, which convicted	Defendant went to the voters' homes and obtained their signatures on absentee ballot	No	N/A	No

015006

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 518		defendant on charges of unlawful observation of voting and on charges of absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters.	request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re--punch a number that had not			

015007

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p>			

015006

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process. Affirmed.			
Jacobs v. Seminole County Canvassing Bd.	Supreme Court	773 So. 2d 519; 2000 Fla. LEXIS 2404	December 12, 2000	In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require	Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.	No	N/A	No

015005

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in Seminole County in the 2000 presidential election.</p>	<p>Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the</p>			

015010

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the</p>			

015011

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					other party's forms. Affirmed.			
Gross v. Albany County Bd. of Elections	Court of Appeals of New York	3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412	October 14, 2004	Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters.	Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be	No	N/A	No

015012

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p>			

015013

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors." Affirmed.</p>			

015014

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election	Supreme Court of Pennsylvania	577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431	March 8, 2004	A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain	The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and	No	N/A	No

015018

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				candidates and voters.	that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non-disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third-person hand-delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in-person delivery			

015016

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.</p>			
In re Canvass of	Commonwealth Court of	839 A.2d 451; 2003	December 22, 2003	The Allegheny County	On appeal, the issue was whether	No	N/A	No

015017

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Absentee Ballots of November 4, 2003	Pennsylvania	Pa. Commw. LEXIS 963		Elections Board did not allow 74 challenged third--party hand--delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order.	non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory			

015013

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.			

015013

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken.</p>			
United States v. Pennsylvania	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21167	October 20, 2004	Plaintiff United States sued defendant Commonwealth of	The testimony of the two witnesses offered by the United States did not support its	No	N/A	No

015020

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so</p>	<p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p>			

015021

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				late in the election year.	right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had			

015022

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied.			
Hoblock v. Albany County Bd. of Elections	United States District Court for the Northern District of New York	341 F. Supp. 2d 169; 2004 U.S. Dist. LEXIS 21326	October 25, 2004	Plaintiffs, candidates and voters, sued defendant, the Albany County, New York,	An election for members of the Albany County Legislature had been enjoined, and special	No	N/A	No

015023

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Board of Elections, under § 1983, claiming that the Board violated plaintiffs' Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction.</p>	<p>primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots</p>			

015024

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p>			

015025

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p>			

015020

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Board from certifying winners of the election was granted.			
Griffin v. Roupas	United States Court of Appeals for the Seventh Circuit	385 F.3d 1128; 2004 U.S. App. LEXIS 21476	October 15, 2004	In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District	The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the	No	N/A	No

015027

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim.</p>	<p>problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois</p>			

015028

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p>			

015028

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					applied to everyone. Affirmed.			
Reitz v. Rendell	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21813	October 29, 2004	Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a	The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee	No	N/A	No

015030

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				voluntary agreement and submitted it to the court for approval.	ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against			

015033

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.			
Bush v. Hillsborough County Canvassing Bd.	United States District Court for the Northern District of Florida	123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265	December 8, 2000	The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based	Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed	No	N/A	No

015032

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p>	<p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write-in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p>			

015030

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot</p>			

015034

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p>			
Kolb v.	Supreme Court	270	March 17,	Both petitioner	Both petitioner	No	N/A	No

015035

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Casella	of New York, Appellate Division, Fourth Department	A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483	2000	and respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election.	and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter			

015030

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					registration card signature----and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee			

015037

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.			
People v. Woods	Court of Appeals of Michigan	241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156	June 27, 2000	Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to	Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election	No	N/A	No

015038

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				pursue the interlocutory appeal, in a criminal action alleging violations of election laws.	fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary			

015039

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to			

015040

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense.			
Harris v. Florida Elections Canvassing Comm'n	United States District Court for the Northern District of Florida	122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875	December 9, 2000	Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the	The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did	No	N/A	No

015041

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				ballots violated Florida law.	not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982.			
Weldon v. Berks County Dep't of Election Servs.	United States District Court for the Eastern District of Pennsylvania	2004 U.S. Dist. LEXIS 21948	November 1, 2004	Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary	The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to	No	N/A	No

015042

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p>	<p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p>			

015043

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8. OVERVIEW: The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were			

015044

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions			

015045

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction.			
Qualkinbush v. Skubisz	Court of Appeals of Illinois, First District	822 N.E.2d 38; 2004 Ill. App. LEXIS 1546	December 28, 2004	Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court	Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and	No	N/A	No

015046

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				declared petitioner mayor.	violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that			

015047

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters.</p> <p>Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots.</p> <p>The Election Code did not violate equal protection principles, as the burden placed</p>			

870910

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.			
Panio v. Sunderland	Supreme Court of New York, Appellate Division, Second Department	14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433	January 25, 2005	In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of	The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by:	No	N/A	No

015049

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent Democratic candidate cross-- appealed.</p>	<p>(1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count</p>			

015050

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p>			

015051

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					equivalent of an application for a special ballot. Order modified and judgment affirmed.			
Pierce v. Allegheny County Bd. of Elections	United States District Court for the Western District of Pennsylvania	324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569	November 13, 2003	Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third-party absentee ballot delivery, require the set aside of all absentee third-party delivered ballots in connection with the November 2003 election, prohibit those	Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear	No	N/A	No

015052

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction.	regarding whether the absentee ballot provision requiring hand--delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies.			

015053

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state</p>			

015054

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court by virtue of the state court's concurrent jurisdiction.			
Friedman v. Snipes	United States District Court for the Southern District of Florida	345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739	November 9, 2004	Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters	The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of §	No	N/A	No

015055

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction.</p>	<p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p>			

015056

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p>			

015057

EAC Voting Fraud-Voter Intimidation Preliminary Research
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Preliminary injunction denied.			

015058

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
United States v. Madden	United States Court of Appeals for the Sixth Circuit	403 F.3d 347; 2005 U.S. App. LEXIS 5326	April 4, 2005	Defendant appealed his conviction for violating the federal vote--buying statute. He also appealed the sentence imposed by the United States District Court for the Eastern District of Kentucky at Pikeville. The district court applied the U.S. Sentencing Guidelines Manual (Guidelines) § 3B1.1(c) supervisory--role	Defendant paid three people to vote for a local candidate in a primary election. The same ballot contained candidates for the U.S. Senate. While he waived his right to appeal his conviction, he nonetheless asserted two arguments in seeking to avoid the waiver. He first posited that the vote buying statute prohibited only buying votes for federal candidates----a prohibition not	No	N/A	No

015059

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				enhancement and increased defendant's base offense level by two levels.	violated by his conduct. In the alternative, he stated if the statute did criminalize buying votes for state or local candidates, then the statute was unconstitutional. Both arguments failed. Defendant argued that applying the supervisory--role enhancement constituted impermissible double counting because the supervision he exercised was no more than necessary to			

015060

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>establish a vote-buying offense. That argument also failed. Defendant next argued that the district court erred by applying the vulnerable-victim enhancement under U.S. Sentencing Guidelines Manual § 3A1.1(b)(1). He acknowledged that he knew the mentally ill people who sold their votes were vulnerable, but maintained they were not victims because they received \$50 for</p>			

015061

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>their votes. The vote sellers were not victims for Guidelines purposes. The district court erred. Defendant's appeal of conviction was dismissed. Defendant's sentence was vacated, and the case was remanded for resentencing.</p>			
United States v. Slone	United States Court of Appeals for the Sixth Circuit	411 F.3d 643; 2005 U.S. App. LEXIS 10137	June 3, 2005	Defendant pled guilty to vote buying in a federal election. The United States District Court for the Eastern District of	Defendant offered to pay voters for voting in a primary election. Defendant claimed that the vote buying statute did not apply to him	No	N/A	No

015062

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Kentucky sentenced defendant to 10 months in custody and recommended that the sentence be served at an institution that could accommodate defendant's medical needs. Defendant appealed his conviction and sentence.</p>	<p>because his conduct related solely to a candidate for a county office. Alternatively, defendant asserted that the statute was unconstitutional because it exceeded Congress' enumerated powers. Finally, defendant argued that the district court erred when it failed to consider his medical condition as a ground for a downward departure at sentencing. The</p>			

015063

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>appellate court found that the vote buying statute applied to all elections in which a federal candidate was on the ballot, and the government need not prove that defendant intended to affect the federal component of the election by his corrupt practices. The facts admitted by defendant at his guilty-plea hearing established all of the essential elements of an</p>			

015064

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					offense. The Elections Clause and the Necessary and Proper Clause combined to provide Congress with the power to regulate mixed federal and state elections even when federal candidates were running unopposed. There was no error in the district court's decision on departure under U.S. Sentencing Guidelines Manual § 5H1.4. Defendant's conviction and			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					sentence were affirmed.			
United States v. Smith	United States Court of Appeals for the Sixth Circuit	139 Fed. Appx. 681; 2005 U.S. App. LEXIS 14855	July 18, 2005	Defendants were convicted of vote buying and conspiracy to buy votes. The United States District Court for the Eastern District of Kentucky entered judgment on the jury verdict and sentenced defendants. Defendants appealed.	One of the defendants was a state representative who decided to run for an elected position. Defendants worked together and with others to buy votes. During defendants' trial, in addition to testimony regarding vote buying, evidence was introduced that two witnesses had been threatened. The appellate court found that defendants	No	N/A	No

015066

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>failed to show evidence of prejudice with regard to denial of the motion for severance. Threat evidence was not excludable under Fed. R. Evid. 404(b) because it was admissible to show consciousness of guilt without any inference as to the character of defendants. Admission of witnesses' testimony was proper because each witness testified that he or she was approached by a</p>			

015067

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>member of the conspiracy and offered money for his or her vote. The remaining incarcerated defendant's challenges to his sentence had merit because individuals who sold their votes were not "victims" for the purposes of U.S. Sentencing Guidelines Manual § 3A1.1. Furthermore, application of U.S. Sentencing Guidelines Manual § 3B1.1(b) violated</p>			

015068

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					defendant's Sixth Amendment rights because it was based on facts that defendant did not admit or proved to the jury beyond a reasonable doubt. Defendants' convictions were affirmed. The remaining incarcerated defendant's sentence was vacated and his case was remanded for resentencing in accordance with Booker.			
Nugent v. Phelps	Court of Appeal of	816 So. 2d 349; 2002	April 23, 2002	Plaintiff incumbent	The incumbent argued that: (1)	No	N/A	No

015069

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Louisiana, Second Circuit	La. App. LEXIS 1138		police chief sued defendant challenger, the winning candidate, to have the election nullified and a new election held based on numerous irregularities and unlawful activities by the challenger and his supporters. The challenger won the election by a margin of four votes. At the end of the incumbent's	the number of persons who were bribed for their votes by the challenger's worker was sufficient to change the outcome of the election; (2) the trial judge failed to inform potential witnesses that they could be given immunity from prosecution for bribery of voters if they came forth with truthful testimony; (3) the votes of three of his ardent supporters			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>case, the district court for the dismissed his suit. The incumbent appealed.</p>	<p>should have been counted because they were incarcerated for the sole purpose of keeping them from campaigning and voting; and (4) the district attorney, a strong supporter of the challenger, abused his power when he subpoenaed the incumbent to appear before the grand jury a week preceding the election. The appellate court held no more than two votes would be</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>subtracted, a difference that would be insufficient to change the election result or make it impossible to determine. The appellate court found the trial judge read the immunity portion of the statute to the potential witnesses. The appellate court found the arrests of the three supporters were the result of grand jury indictments, and there was no manifest error in holding that the</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					incumbent failed to prove a scheme by the district attorney. The judgment of the trial court was affirmed.			
Eason v. State	Court of Appeals of Mississippi	2005 Miss. App. LEXIS 1017	December 13, 2005	Defendant appealed a decision of circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud.	Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant would drive the voters to the clerk's office	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the argument arose because, while the prosecutor's closing</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial.</p> <p>Furthermore, the trial judge did not abuse his discretion when he did not allow defendant</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					to ask the individual whether she wanted to see defendant go to prison because the individual's potential bias was shown by the individual's testimony that she expected the prosecution to recommend her sentence. The court affirmed defendant's conviction.			
United States v. Turner	United States District Court for the Eastern District of Kentucky	2005 U.S. Dist. LEXIS 31709	November 30, 2005	Defendants were charged with committing mail fraud and conspiracy to commit mail fraud and	Defendants argued that recusal was mandated by 28 U.S.C.S. § 455(a) and (b)(1). The court found no merit in defendants'	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>vote--buying. First defendant filed a motion to recuse. Second defendant's motion to join the motion to recuse was granted. First defendant moved to compel the Government to grant testimonial use immunity to second defendant and moved to sever defendants.</p>	<p>arguments. The fact that the judge's husband was the commissioner of the Kentucky Department of Environmental Protection, a position to which he was appointed by the Republican Governor, was not relevant. The judge's husband was neither a party nor a witness. The court further concluded that no reasonable person could find that the judge's spouse had any direct</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>interest in the instant action. As for issue of money donated by the judge's husband to Republican opponents of first defendant, the court could not discern any reason why such facts warranted recusal. First defendant asserted that second defendant should have been granted use immunity based on a belief that second defendant would testify that first defendant did</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not agree to, possess knowledge of, engage in, or otherwise participate in any of the illegal activity alleged in the indictment. The court found the summary of expected testimony to be too general to grant immunity. In addition, it was far from clear whether the court had the power to grant testimonial use immunity to second defendant. Defendants' motion to recuse</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Vote Buying Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					was denied. First defendant's motions to compel and to sever were denied.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Ways v. Shively	Supreme Court of Nebraska	264 Neb. 250; 646 N.W.2d 621; 2002 Neb. LEXIS 158	July 5, 2002	Appellant felon filed a writ of mandamus, which sought to compel appellee Election Commissioner of Lancaster County, Nebraska, to permit him to register to vote. The District Court for Lancaster County denied the felon's petition for writ of mandamus and dismissed the petition. The felon appealed.	The felon was discharged from the Nebraska State Penitentiary in June 1998 after completing his sentences for the crimes of pandering, carrying a concealed weapon and attempting to possess a controlled substance. The commissioner asserted that as a result of the felon's conviction, the sentence for which had neither been reversed nor annulled, he had lost his right to vote. The commissioner contended that the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>only method by which the felon's right to vote could be restored was through a warrant of discharge issued by the Nebraska Board of Pardons-- -a warrant of discharge had not been issued. The supreme court ruled that the certificate of discharge issued to the felon upon his release did not restore his right to vote. The supreme court ruled that as a matter of law, the specific right to vote was not restored to the felon upon his discharge from incarceration at the</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					completion of his sentences. The judgment was affirmed.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court declared the disenfranchisement	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the authority under</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					authority.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw. LEXIS 534	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights.	Petitioner convicted felons were presently or had formerly been confined in state prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners' complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					and the court overruled objection as to deprivation of ex--felon voting rights. The court sustained respondents' objection since incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.			
NAACP Philadelphia	United States District Court	2000 U.S.	August 14, 2000	Plaintiffs moved for a preliminary	Plaintiffs, ex--felon,	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Branch v. Ridge	for the Eastern District of Pennsylvania	Dist. LEXIS 11520		injunction, which the parties agreed to consolidate with the merits determination for a permanent injunction, in plaintiffs' civil rights suit contending that the Pennsylvania Voter Registration Act, offended the Equal Protection Clause of U.S. Const. amend. XIV.	unincorporated association, and others, filed a civil rights suit against defendant state and local officials, contending that the Pennsylvania Voter Registration Act, violated the Equal Protection Clause by prohibiting some ex--felons from voting during the five year period following their release from prison, while permitting other ex--felons to vote. Plaintiffs conceded that one plaintiff lacked standing, and the court assumed the remaining			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>plaintiffs had standing. The court found that all that all three of the special circumstances necessary to invoke the Pullman doctrine were present in the case, but found that abstention was not appropriate under the circumstances since it did not agree with plaintiffs' contention that the time constraints caused by the upcoming election meant that the option of pursuing their claims in state court did not offer plaintiffs an adequate remedy.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Plaintiff's motion for permanent injunction denied; the court abstained from deciding merits of plaintiffs' claims under the Pullman doctrine because all three of the special circumstances necessary to invoke the doctrine were present in the case; all further proceedings stayed until further order.			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged violations of the Voting Rights Act. The parties filed cross-motions for	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				summary judgment.	right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of minorities; as a result, minorities were under--represented in			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new constitutional problem, allowing disenfranchisement only of white</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.			
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed. The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re--enactment of that provision. Although it appeared that there was a disparate impact on minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.			
King v. City of Boston	United States District Court for the District of Massachusetts	2004 U.S. Dist. LEXIS 8421	May 13, 2004	Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which excluded incarcerated felons from voting while they were imprisoned.	The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional rights. The court found the statute at issue to be constitutional and denied the inmate's</p>			

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					motion for summary judgment.			
Hayden v. Pataki	United States District Court for the Southern District of New York	2004 U.S. Dist. LEXIS 10863	June 14, 2004	In a 42 U.S.C.S. § 1983 action filed by plaintiffs, black and latino convicted felons, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) were unconstitutional, defendants, New York's governor and the chairperson of the board of elections, moved for judgment on the pleadings under Fed. R. Civ. P. 12(c).	The felons sued defendants, alleging that N.Y. Const. art. II, § 3 and N.Y. Elec. Law § 5--106(2) unlawfully denied suffrage to incarcerated and paroled felons on account of their race. The court granted defendants' motion for judgment on the pleadings on the felons' claims under U.S. Const. amend. XIV, XV because their factual allegations were insufficient from which to draw an inference	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>that the challenged provisions or their predecessors were enacted with discriminatory intent, and because denying suffrage to those who received more severe punishments, such as a term of incarceration, and not to those who received a lesser punishment, such as probation, was not arbitrary. The felons' claims under 42 U.S.C.S. § 1973 were dismissed because § 1973 could not be used to challenge the legality of N.Y. Elec. Law § 5--106. Defendants'</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>motion was granted as to the felons' claims under 42 U.S.C.S. § 1971 because § 1971 did not provide for a private right of action, and because the felons were not "otherwise qualified to vote." The court also granted defendants' motion on the felons' U.S. Const. amend. I claim because it did not guarantee a felon the right to vote. Defendants' motion for judgment on the pleadings was granted in the felons' § 1983</p>			

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					action.			
Farrakhan v. Washington	United States Court for Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised. The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that	No	N/A	No

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					<p>the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial</p>			

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					<p>bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system</p>			

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					claim.			
In re Phillips	Supreme Court of Virginia	265 Va. 81; 574 S.E.2d 270; 2003 Va. LEXIS 10	January 10, 2003	The circuit court, entered a judgment in which it declined to consider petitioner former felon's petition for approval of her request to seek restoration of her eligibility to register to vote. The former felon appealed.	More than five years earlier, the former felon was convicted of the felony of making a false written statement incident to a firearm purchase. She then petitioned the trial court asking it to approve her request to seek restoration of her eligibility to register to vote. Her request was based on Va. Code Ann. § 53.1--231.2, allowing persons convicted of non--violent felonies to petition a trial court for approval of a request to seek	No	N/A	No

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					<p>restoration of voting rights. The trial court declined. It found that Va. Code Ann. § 53.1--231.2 violated constitutional separation of powers principles since it gave the trial court powers belonging to the governor. It also found that even if the statute was constitutional, it was fundamentally flawed for not providing notice to respondent Commonwealth regarding a petition. After the petition was denied, the state supreme court</p>			

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					<p>found the separation of powers principles were not violated since the statute only allowed the trial court to determine if an applicant met the requirements to have voting eligibility restored. It also found the statute was not fundamentally flawed since the Commonwealth was not an interested party entitled to notice. OUTCOME: The judgment was reversed and the case was remanded for further proceedings.</p>			
Howard v.	United States	2000	February	Appellant	Appellant was	No	N/A	No

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Gilmore	Court of Appeals for the Fourth Circuit	U.S. App. LEXIS 2680	23, 2000	challenged the United States District Court for the Eastern District of Virginia's order summarily dismissing his complaint, related to his inability to vote as a convicted felon, for failure to state a claim upon which relief can be granted.	disenfranchised by the Commonwealth of Virginia following his felony conviction. He challenged that decision by suing the Commonwealth under the U.S. Const. amends. I, XIV, XV, XIX, and XXIV, and under the Voting Rights Act of 1965. The lower court summarily dismissed his complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Appellant challenged. The court found U.S. Const. amend. I			

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					<p>created no private right of action for seeking reinstatement of previously canceled voting rights, U.S. Const. amends. XIV, XV, XIX, and the VRA required either gender or race discrimination, neither of which appellant asserted, and the U.S. Const. amend. XXIV, while prohibiting the imposition of poll taxes, did not prohibit the imposition of a \$10 fee for reinstatement of appellant's civil rights, including the right to vote. Consequently,</p>			

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					<p>appellant failed to state a claim. The court affirmed, finding that none of the constitutional provisions appellant relied on were properly pled because appellant failed to assert that either his race or gender were involved in the decisions to deny him the vote. Conditioning reestablishment of his civil rights on a \$10 fee was not unconstitutional.</p>			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	353 F.3d 1287; 2003 U.S. App. LEXIS	December 19, 2003	Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a	The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		25859		<p>decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.</p>	<p>constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show</p>			

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					<p>that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court found that the claim under the Voting Rights Act, also needed to be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					behind the Florida disenfranchisement provisions, in violation of the Voting Rights Act. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for violation of federal voting laws and remanded the matter to the district court for further proceedings.			
State v. Black	Court of	2002	September	In 1997, petitioner	The appellate	No	N/A	No

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Felon Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Appeals of Tennessee	Tenn. App. LEXIS 696	26, 2002	was convicted of forgery and sentenced to the penitentiary for two years, but was immediately placed on probation. He subsequently petitioned the circuit court for restoration of citizenship. The trial court restored his citizenship rights. The State appealed. The appellate court issued its opinion, but granted the State's motions to supplement the record and to rehear its decision.	court's original opinion found that petitioner had not lost his right to hold public office because Tennessee law removed that right only from convicted felons who were "sentenced to the penitentiary." The trial court's amended judgment made it clear that petitioner was in fact sentenced to the penitentiary. Based upon this correction to the record, the appellate court found that petitioner's sentence to the penitentiary resulted in the			

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					<p>forfeiture of his right to seek and hold public office by operation of Tenn. Code Ann. § 40-20--114. However, the appellate court concluded that this new information did not requires a different outcome on the merits of the issue of restoration of his citizenship rights, including the right to seek and hold public office. The appellate court adhered to its conclusion that the statutory presumption in favor of the restoration was not overcome by a</p>			

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					showing, by a preponderance of the evidence, of good cause to deny the petition for restoration of citizenship rights. The appellate court affirmed the restoration of petitioner's right to vote and reversed the denial of his right to seek and hold public office. His full rights of citizenship were restored.			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	405 F.3d 1214; 2005 U.S. App. LEXIS 5945	April 12, 2005	Plaintiff individuals sued defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const.	The individuals argued that the racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>art. VI, § 4 (1968), violated the Equal Protection Clause and 42 U.S.C.S. § 1973. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.</p>	<p>operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not</p>			

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					<p>a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that 42 U.S.C.S. § 1973 applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment permitted the state to maintain. In addition, the legislative history indicated that Congress never</p>			

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Felon Voting Cases

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					<p>intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Jenkins v. Williamson-Butler	Court of Appeal of Louisiana, Fourth Circuit	883 So. 2d 537; 2004 La. App. LEXIS 2433	October 8, 2004	Petitioner, a candidate for a parish juvenile court judgeship, failed to qualify for a runoff election. She filed suit against defendant, the clerk of criminal court for the parish seeking a new election, based on grounds of substantial irregularities. The district court ruled in favor of the candidate	The trial court found that the voting machines were not put into service until two, four, and, in many instances, eight hours after the statutorily mandated starting hour which constituted serious irregularities so as to deprive voters from freely expressing their will. It was impossible to determine the number of voters that were affected by the	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				and ordered the holding of a restricted citywide election. The clerk appealed.	late start up or late arrival of voting machines, making it impossible to determine the result. The appellate court agreed that the irregularities were so serious that the trial court's voiding the election and calling a new election was the proper remedy. Judgment affirmed.			
Hester v. McKeithen	Court of Appeal of Louisiana, Fourth Circuit	882 So. 2d 1291; 2004 La. App. LEXIS 2429	October 8, 2004	Petitioner, school board candidate, filed suit against defendants, Louisiana	The candidate argued that the trial court erred in not setting aside the election, even after	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Secretary of State and district court clerk, contesting the school board election results. The trial court rendered judgment against the candidate, finding no basis for the election to be declared void. The candidate appealed.	acknowledging in its reasons for judgment numerous irregularities with the election process. The appellate court ruled that had the irregularities not occurred the outcome would have been exactly the same. Judgment affirmed.			
In re Election Contest of Democratic Primary Election	Supreme Court of Ohio	88 Ohio St. 3d 258; 2000 Ohio 325; 725 N.E.2d 271; 2000 Ohio	March 29, 2000	Appellant sought review of the judgment of the court of common	Appellant contended that an election irregularity occurred when the board failed	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Held May 4, 1999		LEXIS 607		pleas denying his election contest challenging an opponent's nomination for election irregularity.	to meet and act by majority vote on another candidate's withdrawal, instead permitting its employees to make decisions. Appellant had to prove by clear and convincing evidence that one or more election irregularities occurred and it affected enough votes to change or make uncertain the result of the election. Judgment affirmed. The appellant did			

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					not establish election irregularity by the board's actions on the candidate's withdrawal, the board acted diligently and exercised its discretion in keeping the candidate's name on the ballot and notifying electors of his withdrawal.			
In re Election Contest As to Watertown Special Referendum Election	Supreme Court of South Dakota	2001 SD 62; 628 N.W.2d 336; 2001 S.D. LEXIS 66	May 23, 2001	Appellant sought review of the judgment of the circuit court declaring a local election valid and	The burden was on appellants to show not only that voting irregularities occurred, but also show that those irregularities	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				declining to order a new election.	were so egregious that the will of the voters was suppressed. Appellants did not meet their burden, as mere inconvenience or delay in voting was not enough to overturn the election. Judgment affirmed.			
Jones v. Jessup	Supreme Court of Georgia	279 Ga. 531; 615 S.E.2d 529; 2005 Ga. LEXIS 447	June 30, 2005	Defendant incumbent appealed a judgment by the trial court that invalidated an election for the position of sheriff and	After the candidate lost the sheriff's election to the incumbent, he contested the election, asserting that there were sufficient irregularities to	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>ordered that a new election be held based on plaintiff candidate's election contest.</p>	<p>place in doubt the election results. The state supreme court held that the candidate failed to prove substantial error in the votes cast by the witnesses adduced at the hearing who voted at the election. Although the candidate's evidence reflected the presence of some irregularities, not every irregularity invalidated the vote. The absentee ballots</p>			

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					<p>were only to be rejected where the electors failed to furnish required information. Because the ballots cast by the witnesses substantially complied with all of the essential requirements of the form, the trial court erred by finding that they should not have been considered. The candidate failed to establish substantial error in the votes. Judgment reversed.</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Toliver v. Thompson	Supreme Court of Oklahoma	2000 OK 98; 17 P.3d 464; 2000 Okla. LEXIS 101	December 21, 2000	Petitioner challenged an order of the district court denying his motion to compel a recount of votes from an election.	The court held a recount of votes cast in an election could occur when the ballots had been preserved in the manner prescribed by statute. The trial court noted when the ballots had not been preserved in such a manner, no recount would be conducted. The court further noted a petition alleging irregularities in an election could be based upon an allegation that	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>it was impossible to determine with mathematical certainty which candidate was entitled to be issued a certificate of election. The Oklahoma supreme court held petitioner failed to show that the actual votes counted in the election were tainted with irregularity, and similarly failed to show a statutory right to a new election based upon a failure to preserve the</p>			

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					ballots. Judgment affirmed.			
Adkins v. Huckabay	Supreme Court of Louisiana	755 So. 2d 206; 2000 La. LEXIS 504	February 25, 2000	Plaintiff candidate challenged judgment of court of appeal, second circuit, which reversed the lower court's judgment and declared defendant candidate winner of a runoff election for sheriff.	The issue presented for the appellate court's determination was whether the absentee voting irregularities plaintiff candidate complained of rendered it impossible to determine the outcome of the election for sheriff. The Louisiana supreme court concluded that the lower court had applied the correct	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>standard, substantial compliance, to the election irregularities, but had erred in its application by concluding that the contested absentee ballots substantially complied with the statutory requirements. The supreme court found that in applying substantial compliance to five of the ballot irregularities, the trial court correctly vacated the general election</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>and set it aside because those absentee ballots should have been disqualified. Because of the constitutional guarantee to secrecy of the ballot and the fact that the margin of victory in the runoff election was three votes, it was impossible to determine the result of the runoff election. Thus, the supreme court ordered a new general election.</p> <p>Judgment of the</p>			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court of appeals reversed.			
In re Gray--Sadler	Supreme Court of New Jersey	164 N.J. 468; 753 A.2d 1101; 2000 N.J. LEXIS 668	June 30, 2000	Appellants, write--in candidates for the offices of mayor and borough council, appealed the judgment of the superior court, appellate division reversing the trial court's decision to set aside the election results for those offices due to irregularities related to the write--in	The New Jersey supreme court held that the votes that were rejected by election officials did not result from the voters' own errors, but from the election officials' noncompliance with statutory requirements. In other words, the voters were provided with patently inadequate instructions and defective voting machines. Moreover,	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				instructions and defective voting machines.	appellants met the statutory requirement for successfully contesting the election results by showing that enough qualified voters were denied the right to cast write-in votes as to affect the outcome of the election. Judgment reversed and the state trial court's decision reinstated.			
Goodwin v. St. Thomas-St. John Bd. of Elections	Territorial Court of the Virgin Islands	43 V.I. 89; 2000 V.I. LEXIS 15	December 13, 2000	Plaintiff political candidate alleged that certain general election	Plaintiff alleged that defendants counted unlawful absentee ballots that lacked postmarks,	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>absentee ballots violated territorial - election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the</p>	<p>were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The territorial court held that plaintiff was not entitled to relief since he failed to</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				election results tabulated without such ballots.	establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly			

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					<p>counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were</p>			

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					proper.			
Johnson v. Lopez--Torres	Supreme Court of New York, Appellate Division, Second Department	2005 NY Slip Op 7825; 2005 N.Y. App. Div. LEXIS 11276	October 21, 2005	In a proceeding for a re--canvass of certain affidavit ballots cast in the Democratic Party primary election for the public office of surrogate, the supreme court denied appellant candidate's petition requesting the same and declared appellee opponent the winner of	Finding that the candidate had waived her right to challenge the affidavit ballots and had not sufficiently established her claim of irregularities to warrant a hearing, the trial court denied her petition and declared the opponent the winner of the primary. However, on appeal, the appellate division held that no waiver occurred.			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				that election.	Moreover, because hundreds of apparently otherwise eligible voters failed to fill in their party enrollment and/or prior address, it could be reasonably inferred that these voters were misled thereby into omitting the required information. Finally, the candidate failed to make a sufficient showing of voting irregularities in			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the machine vote to require a hearing on that issue. Judgment reversed.			
Ex parte Avery	Supreme Court of Alabama	843 So. 2d 137; 2002 Ala. LEXIS 239	August 23, 2002	Petitioner probate judge moved for a writ of mandamus directing a circuit judge to vacate his order requiring the probate judge to transfer all election materials to the circuit clerk and holding him in contempt for failing to do so. The	The issuance of a writ of mandamus was appropriate. The district attorney had a right to the election materials because he was conducting a criminal investigation of the last election. Furthermore, the circuit judge had no jurisdiction or authority to issue an order	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				probate judge also requested that said material be turned over to the district attorney, pursuant to an outstanding subpoena.	directing that the election materials be given to the clerk. The district attorney received several claims of irregularities in the election, some of which could constitute voter fraud. Petition granted and writ issued.			
Harpole v. Kemper County Democratic Exec. Comm.	Supreme Court of Mississippi	908 So. 2d 129; 2005 Miss. LEXIS 463	August 4, 2005	After his loss in a primary election for the office of sheriff, appellant candidate sued appellees, a political party's executive	The candidate alleged the sheriff had his deputies transport prisoners to the polls, felons voted, and the absentee voter law was breached. The committee	No	N/A	No

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>committee and the incumbent sheriff, alleging irregularities in the election. The circuit court dismissed the candidate's petition for judicial review with prejudice. He appealed.</p>	<p>agreed with the last contention and threw out the absentee ballots (seven percent of votes cast); after a recount, the sheriff still prevailed. The trial court dismissed the case due to alleged defects in the petition; in the alternative, it held that the candidate failed to sufficiently allege violations and irregularities in the election. The supreme court held that the petition was</p>			

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					not defective. Disqualification of seven percent of the total votes was not substantial enough so as to cause the will of the voters to be impossible to discern and to warrant a special election, and there were not enough illegal votes cast for the sheriff to change the outcome. A blanket allegation implying that the sheriff had deputies transport prisoners to the			

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Election Irregularities Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					polls was not supported by credible evidence. Judgment affirmed.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala. LEXIS 214	December 9, 2005	The circuit court overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross--appealed. In the meantime, the trial court stayed enforcement of	The voters and the incumbent all challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that	No	N/A	No

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				its judgment pending resolution of the appeal.	at least 30 absentee voters who voted for the incumbent provided with their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those			

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Voter ID Cases

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					<p>circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply</p>			

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Voter ID Cases

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					with the absentee--voting requirements. The judgment declaring the incumbent's opponent the winner was affirmed. The judgment counting the challenged votes in the final tally of votes was reversed, and said votes were subtracted from the incumbents total, and the stay was vacated. All other arguments were rendered moot as a result.			
ACLU of Minn. v.	United States	2004 U.S. Dist.	October 29, 2004	Plaintiffs, voters and	Plaintiffs argued that Minn. Stat.	No	N/A	No

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Kiffmeyer	District Court for the District of Minnesota	LEXIS 22996		associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration.	§ 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and address of the			

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Voter ID Cases

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					<p>individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal Protection Clause of the Fourteenth</p>			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on their claims that Minn. R. 8200.5100,</p>			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to	The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional	No	N/A	No

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				dismiss.	ballot, a first--time voter could identify himself by providing his driver's license number or the last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first-time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the			

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Voter ID Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive, even if the cost, in terms of uncounted ballots, was regrettable. The court granted the Secretary's motion to dismiss.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
New York v. County of Del.	United States District Court for the Northern District of New York	82 F. Supp. 2d 12; 2000 U.S. Dist. LEXIS 1398	February 8, 2000	Plaintiffs brought a claim in the district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued.	In their complaint plaintiffs alleged that defendants violated the ADA by making the voting locations inaccessible to disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct parties, because	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>pursuant to New York election law defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, due to the alleged</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>facts, the court found plaintiffs would likely succeed on the merits. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction and granted plaintiffs' motion for leave to amend their complaint.</p>			
New York v. County of Schoharie	United States District	82 F. Supp. 2d 19; 2000	February 8, 2000	Plaintiffs brought a claim in the	In their complaint, plaintiffs	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Northern District of New York	U.S. Dist. LEXIS 1399		district court under the Americans With Disabilities Act and filed a motion for a preliminary injunction and a motion for leave to amend their complaint, and defendants were ordered to show cause why a preliminary injunction should not be issued.	alleged defendants violated the ADA by allowing voting locations to be inaccessible for disabled persons and asked for a preliminary injunction requiring defendants to come into compliance before the next election. The court found that defendants were the correct party, because pursuant to New York election law,			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>defendants were responsible for the voting locations. The court further found that the class plaintiffs represented would suffer irreparable harm if they were not able to vote, because, if the voting locations were inaccessible, disabled persons would be denied the right to vote. Also, the court found that plaintiffs would likely succeed on the</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>merits of their case. Consequently, the court granted plaintiffs' motion for a preliminary injunction. The court granted plaintiffs' motion for a preliminary injunction because plaintiffs showed irreparable harm and proved likely success on the merits and granted plaintiff's motion for leave to amend the complaint.</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Westchester Disabled on the Move, Inc. v. County of Westchester	United States District Court for the Southern District of New York	346 F. Supp. 2d 473; 2004 U.S. Dist. LEXIS 24203	October 22, 2004	Plaintiffs sued defendant county, county board of elections, and election officials pursuant to 42 U.S.C.S. §§ 12131--12134, N.Y. Exec. Law § 296, and N.Y. Elec. Law § 4--1--4. Plaintiffs moved for a preliminary injunction, requesting (among other things) that the court order defendants to modify the polling places in the county so that they	The inability to vote at assigned locations on election day constituted irreparable harm. However, plaintiffs could not show a likelihood of success on the merits because the currently named defendants could not provide complete relief sought by plaintiffs. Although the county board of elections was empowered to	No	N/A	No

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>were accessible to disabled voters on election day. Defendants moved to dismiss.</p>	<p>select an alternative polling place should it determine that a polling place designated by a municipality was "unsuitable or unsafe," it was entirely unclear that its power to merely designate suitable polling places would be adequate to ensure that all polling places used in the upcoming election actually conformed</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>with the Americans with Disabilities Act. Substantial changes and modifications to existing facilities would have to be made, and such changes would be difficult, if not impossible, to make without the cooperation of municipalities. Further, the court could order defendants to approve voting machines that conformed to</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the ADA were they to be purchased and submitted for county approval, but the court could not order them to purchase them for the voting districts in the county. A judgment issued in the absence of the municipalities would be inadequate. Plaintiffs' motion for preliminary injunction was denied, and defendants' motion to dismiss was granted.</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Nat'l Org. on Disability v. Tartaglione	United States District Court for the Eastern District of Pennsylvania	2001 U.S. Dist. LEXIS 16731	October 11, 2001	Plaintiffs, disabled voters and special interest organizations, sued defendants, city commissioners, under the Americans with Disabilities Act and § 504 of the Rehabilitation Act of 1973, and regulations under both statutes, regarding election practices. The commissioners moved to dismiss for failure (1) to	The voters were visually impaired or wheelchair bound. They challenged the commissioners' failure to provide talking voting machines and wheelchair accessible voting places. They claimed discrimination in the process of voting because they were not afforded the same opportunity to participate in the voting process as non-disabled	No	N/A	Yes-see if the case was refiled

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				state a cause of action and (2) to join an indispensable party.	voters, and assisted voting and voting by alternative ballot were substantially different from, more burdensome than, and more intrusive than the voting process utilized by non--disabled voters. The court found that the complaint stated causes of actions under the ADA, the Rehabilitation Act, and 28 C.F.R. §§ 35.151 and			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>35.130. The court found that the voters and organizations had standing to raise their claims. The organizations had standing through the voters' standing or because they used significant resources challenging the commissioners' conduct. The plaintiffs failed to join the state official who would need to approve any talking voting machine as a</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>party. As the court could not afford complete relief to the visually impaired voters in that party's absence, it granted the motion to dismiss under Fed. R. Civ. P. 12(b)(7) without prejudice. The court granted the commissioners' motion to dismiss in part, and denied it in part. The court granted the motion to dismiss the claims of the</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					visually impaired voters for failure to join an indispensable party, without prejudice, and with leave to amend the complaint.			
TENNESSEE, Petitioner v. GEORGE LANE et al.	United States Supreme Court	541 U.S. 509; 124 S. Ct. 1978; 158 L. Ed. 2d 820; 2004 U.S. LEXIS 3386	May 17, 2004	Respondent paraplegics sued petitioner State of Tennessee, alleging that the State failed to provide reasonable access to court facilities in violation of Title II of the Americans with Disabilities Act	The state contended that the abrogation of state sovereign immunity in Title II of the ADA exceeded congressional authority under U.S. Const. amend XIV, § 5, to enforce substantive constitutional guarantees.	No	N/A	No

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>of 1990. Upon the grant of a writ of certiorari, the State appealed the judgment of the United States Court of Appeals for the Sixth Circuit which denied the State's claim of sovereign immunity.</p>	<p>The United States Supreme Court held, however, that Title II, as it applied to the class of cases implicating the fundamental right of access to the courts, constituted a valid exercise of Congress's authority. Title II was responsive to evidence of pervasive unequal treatment of persons with disabilities in the administration of state</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>services and programs, and such disability discrimination was thus an appropriate subject for prophylactic legislation. Regardless of whether the State could be subjected to liability for failing to provide access to other facilities or services, the fundamental right of access to the courts warranted the limited requirement that the State reasonably</p>			

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Disability Access Cases 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					accommodate disabled persons to provide such access. Title II was thus a reasonable prophylactic measure, reasonably targeted to a legitimate end. The judgment denying the State's claim of sovereign immunity was affirmed.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Hileman v. McGinness	Appellate Court of Illinois, Fifth District	316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845	October 25, 2000	Appellant challenged the circuit court's declaration that that the result of a primary election for county circuit clerk was void.	In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					segregated, apportionment was the appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a			

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Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					determination as to whether fraud was evident in the electoral process. Judgment reversed and remanded.			
Eason v. State	Court of Appeals of Mississippi	2005 Miss. App. LEXIS 1017	December 13, 2005	Defendant appealed a decision of the circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud.	Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant	No	N/A	No

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Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>would drive the voters to the clerk's office where they would vote by absentee ballot and defendant would give them beer or money. Defendant claimed he was entitled to a mistrial because the prosecutor advanced an impermissible "sending the message" argument. The court held that it was precluded from reviewing the entire context in which the</p>			

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Mixed Vote Fraud Cases

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					argument arose because, while the prosecutor's closing argument was in the record, the defense counsel's closing argument was not. Also, because the prosecutor's statement was incomplete due to defense counsel's objection, the court could not say that the statement made it impossible for defendant to receive a fair trial. Judgment affirmed.			
Wilson v.	Court of	2000 Va.	May 2,	Defendant	At trial, the	No	N/A	No

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Mixed Vote Fraud Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Commonwealth	Appeals of Virginia	App. LEXIS 322	2000	appealed the judgment of the circuit court which convicted her of election fraud.	Commonwealth introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from			

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Mixed Vote Fraud Cases

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					the Department of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question. Judgment affirmed.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Miller v. Blackwell	United States District Court for the southern District of Ohio	348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894	October 27, 2004	Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order. Two individuals filed a motion to intervene as defendants.	Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>likelihood of success on the merits because they made a strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court also granted the individuals' motion to intervene.			
Spencer v. Blackwell	United States District Court for the Southern District of Ohio	347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062	November 1, 2004	Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls.	The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. Because the voters had shown a</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					substantial likelihood of success on the merits on the ground that the application of Ohio's statute allowing challengers at polling places was unconstitutional and the other factors governing the issuance of an injunction weighed in their favor, the court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					state on Election Day.			
Charfauros v. Bd. of Elections	United States Court of Appeals for the Ninth Circuit	2001 U.S. App. LEXIS 15083	May 10, 2001	Defendants, board of elections and related individuals, appealed from an order of the Supreme Court of the Commonwealth of the Northern Mariana Islands reversing a lower court's grant of summary judgment in favor of defendants on the ground of qualified immunity.	Plaintiffs, disqualified voters, claimed that individual members of the Commonwealth of the Northern Mariana Islands Board of Elections violated § 1983 by administering pre--election day voter challenge procedures which precluded a certain class of voters, including plaintiffs, from voting in a 1995 election. The CNMI Supreme Court reversed a lower court's grant of summary	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>judgment and defendants appealed. The court of appeals held that the Board's pre-election day procedures violated the plaintiffs' fundamental right to vote. The federal court reasoned that the right to vote was clearly established at the time of the election, and that a reasonable Board would have known that that treating voters differently based on their political party would violate the Equal</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Protection Clause. Further the court added that the allegations of the complaint were sufficient to support liability of the Board members in their individual capacities. Finally, the composition of the CNMI Supreme Court's Special Judge panel did not violate the Board's right to due process of law. The decision of Commonwealth of the Northern Mariana Islands Supreme Court was affirmed</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					where defendants' pre--election day voter challenge procedures violated plaintiffs' fundamental right to vote.			
Wit v. Berman	United States Court of Appeals for the Second Circuit	306 F.3d 1256; 2002 U.S. App. LEXIS 21301	October 11, 2002	Appellant voters who established residences in two separate cities sued appellees, state and city election officials, alleging that provisions of the New York State Election Law unconstitutionally prevented the voters from voting in local elections in both cities where they resided. The voters appealed the order of the	Under state election laws, the voters could only vote in districts in which they resided, and residence was limited to one place. The voters contended that, since they had two lawful residences, they were denied constitutional equal protection by the statutory restriction against voting in the local elections of both	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>United States District Court for the Southern District of New York which granted appellees' motion to dismiss the complaint.</p>	<p>of the places of their residences. The appellate court held, however, that no constitutional violation was shown since the provisions of the New York State Election Law imposed only reasonable, nondiscriminatory restrictions which advanced important state regulatory interests. While the voters may have interests in electoral outcomes in both cities, any rule permitting voting based on such interests would be</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>unmanageable and subject to potential abuse. Further, basing voter eligibility on domicile, which was always over--or under--inclusive, nonetheless had enormous practical advantages, and the voters offered no workable standard to replace the domicile test. Finally, allowing the voters to choose which of their residences was their domicile for voting purposes could not be deemed</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					discriminatory. Affirmed.			
Curtis v. Smith	United States District Court for the Eastern District of Texas	121 F. Supp. 2d 1054; 2000 U.S. Dist. LEXIS 17987	November 3, 2000	Plaintiffs sought a preliminary injunction to prohibit defendant tax assessor-collector from mailing confirmation letters to approximately 9,000 persons who were registered voters in Polk County, Texas.	Plaintiffs sought to prohibit defendant from mailing confirmation letters to approximately 9,000 persons, self--styled "escapees" who traveled a major portion of each year in recreational vehicles, all of whom were registered to vote in Polk County, Texas. In accordance with Texas law, three resident voters filed affidavits challenging the escapees'	No	N/A	No

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 Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>residency. These affidavits triggered defendant's action in sending confirmation notices to the escapees. The court determined, first, that because of the potential for discrimination, defendant's action required preclearance in accordance with § 5 of the Voting Rights Act and, second, that such preclearance had not been sought or obtained. Accordingly, the court issued a preliminary injunction</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prohibiting defendant from pursuing the confirmation of residency of the escapees, or any similarly situated group, under the Texas Election Code until the process had been submitted for preclearance in accordance with § 5. The action was taken to ensure that no discriminatory potential existed in the use of such process in the upcoming presidential election or future election. Motion for preliminary injunction was</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					granted, and defendant was enjoined from pursuing confirmation of residency of the 9,000 "escapees," or any similarly situated group, under the Texas Election Code, until the process had been submitted for preclearance under § 5 of the Voting Rights Act.			
Peace & Freedom Party v. Shelley	Court of Appeal of California, Third Appellate District	114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42	January 15, 2004	Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel	The trial court ruled that inactive voters were excluded from the primary election. The court of appeals affirmed, observing that although the	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.</p>	<p>election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					certain conditions, inactive voters in California could correct the record and vote as provided the Act. The court affirmed the denial of a writ of mandate.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not	No	N/A	No

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 Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved for summary judgment.</p>	<p>afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					resolve that challenge, did not contravene the MVA. Defendants' motions for summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Charles H. Wesley Educ. Found., Inc. v. Cox	United States Court of Appeals for the Eleventh Circuit	408 F.3d 1349; 2005 U.S. App. LEXIS 8320	May 12, 2005	Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the	The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				foundation.	forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p>			
McKay v.	United	226 F.3d	September	Plaintiff	The trial court	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thompson	States Court of Appeals for the Sixth Circuit	752; 2000 U.S. App. LEXIS 23387	18, 2000	challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims.			
Nat'l	United	150 F.	July 5,	Plaintiff, national	Defendants	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales	States District Court for the Southern District of Maryland	Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528	2001	organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.			
Cunningham v. Chi. Bd. of Election Comm'rs	United States District Court for the Northern District of Illinois	2003 U.S. Dist. LEXIS 2528	February 24, 2003	Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed	Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p>	<p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					preliminary relief was denied.			
Diaz v. Hood	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445	October 26, 2004	Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials	The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p>	<p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prejudice granted.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment.	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA	No	N/A	No

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause	The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p>	<p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19--3509.21 violated the National Voter Registration Act, and the Equal Protection Clause of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio	The voters asserted that § 3503.02---- which stated that the place where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>granted summary judgment in favor of defendants. The voters appealed.</p>	<p>not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann. § 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Wilson v. Commonwealth	Court of Appeals of Virginia	2000 Va. App. LEXIS 322	May 2, 2000	Defendant appealed the judgment of the circuit court which convicted her of election fraud.	On appeal, defendant argued that the evidence was insufficient to support her conviction because it failed to prove that she made a willfully false statement on her voter registration form and, even if the evidence did prove that she made such a statement, it did not prove that the voter registration form was the form required by Title 24.2. At trial, the Commonwealth	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from the Department</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed by Title 24.2 in order for her to be a candidate for office in the primary in question. Judgment of conviction affirmed. Evidence, including</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>records showing electricity and water usage, records from the Department of Motor Vehicles and school records, was sufficient to support jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question.</p>			
ACLU of Minn. v.	United States	2004 U.S. Dist.	October 29, 2004	Plaintiffs, voters and	Plaintiffs argued that	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Kiffmeyer	District Court for the District of Minnesota	LEXIS 22996		associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration.	Minn. Stat. § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>address of the individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Protection Clause of the Fourteenth Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					their claims that Minn. R. 8200.5100, violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.			
Kalsson v. United States FEC	United States District Court for the Southern District of New York	356 F. Supp. 2d 371; 2005 U.S. Dist. LEXIS 2279	February 16, 2005	Defendant Federal Election Commission filed a motion to dismiss for lack of subject matter jurisdiction plaintiff individual's action, which sought a declaration that	The individual claimed that his vote was diluted because the NVRA resulted in more people registering to vote than otherwise would have been the case. The court held that the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the National Voter Registration Act was unconstitutional on the theories that its enactment was not within the enumerated powers of the federal government and that it violated Article II of the United States Constitution.</p>	<p>individual lacked standing to bring the action. Because New York was not obliged to adhere to the requirements of the NVRA, the individual did not allege any concrete harm. If New York simply adopted election day registration for elections for federal office, it would have been entirely free of the NVRA just as were five other states. Even if the individual's vote were diluted, and</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					even if such an injury in other circumstances might have sufficed for standing, any dilution that he suffered was the result of New York's decision to maintain a voter registration system that brought it under the NVRA, not the NVRA itself. The court granted the motion to dismiss for lack of subject matter jurisdiction.			
Peace &	California	114 Cal.	January 15,	Plaintiff	The trial court	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Freedom Party v. Shelley	Court of Appeal, Third Appellate District	App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42	2004	political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.	ruled that inactive voters were excluded from the primary election calculation. The court of appeals affirmed, observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in California could correct the record and</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					vote. Affirmed.			
McKay v. Thompson	United States Court of Appeals for the Sixth Circuit	226 F.3d 752; 2000 U.S. App. LEXIS 23387	September 18, 2000	Plaintiff challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	The trial court had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous caselaw, and could be	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>challenged in state court. The requirement did not violate the Privacy Act because it was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. Plaintiff</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>could not enforce § 1971 as it was enforceable only by the United States Attorney General. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. Although the trial court arguably erred in denying certification of the case to the USAG under</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					28 U.S.C.S. § 2403(a), plaintiff suffered no harm from the technical violation. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					right to vote, free exercise of religion, privileges and immunities, and due process claims.			
Lucas County Democratic Party v. Blackwell	United States District Court for the Northern District of Ohio	341 F. Supp. 2d 861; 2004 U.S. Dist. LEXIS 21416	October 21, 2004	Plaintiff organizations brought an action challenging a memorandum issued by defendant, Ohio's Secretary of State, in December 2003. The organizations claimed that the memorandum contravened provisions of the Help America Vote	The case involved a box on Ohio's voter registration form that required a prospective voter who registered in person to supply an Ohio driver's license number or the last four digits of their Social Security number. In his memorandum, the Secretary informed all	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Act and the National Voter Registration Act. The organizations moved for a preliminary injunction.	Ohio County Boards of Elections that, if a person left the box blank, the Boards were not to process the registration forms. The organizations did not file their suit until 18 days before the national election. The court found that there was not enough time before the election to develop the evidentiary record necessary to determine if the organizations			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were likely to succeed on the merits of their claim. Denying the organizations' motion would have caused them to suffer no irreparable harm. There was no appropriate remedy available to the organizations at the time. The likelihood that the organizations could have shown irreparable harm was, in any event, slight in view of the fact that</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					they waited so long before filing suit. Moreover, it would have been entirely improper for the court to order the Boards to re-open in-person registration until election day. The public interest would have been ill-served by an injunction. The motion for a preliminary injunction was denied sua sponte.			
Nat'l Coalition for Students with Disabilities	United States District Court for	150 F. Supp. 2d 845; 2001 U.S. Dist.	July 5, 2001	Plaintiff, national organization for disabled	Defendants alleged that plaintiff lacked standing to	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Educ. & Legal Def. Fund v. Scales	the District of Maryland	LEXIS 9528		students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not registered			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim,</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the court found that the agency practice of only offering voter registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>university. Defendants' motion to dismiss first amended complaint was granted as to the § 1983 claimant denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p>			
People v. Disimone	Court of Appeals of Michigan	251 Mich. App. 605; 650 N.W.2d 436; 2002	July 11, 2002	Defendant was charged with attempting to vote more than once in the	Defendant was registered in the Colfax township for the 2000	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		Mich. App. LEXIS 826		2000 general election. The circuit court granted defendant's motion that the State had to prove specific intent. The State appealed.	general election. After presenting what appeared to be a valid voter's registration card, defendant proceeded to vote in the Grant township. Defendant had voted in the Colfax township earlier in the day. Defendant moved the court to issue an order that the State had to find that he had a specific intent to vote twice in order to be convicted. The appellate court			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					reversed the circuit court judgment and held that under the rules of statutory construction, the fact that the legislature had specifically omitted certain trigger words such as "knowingly," "willingly," "purposefully," or "intentionally" it was unlikely that the legislature had intended for this to be a specific intent crime. The court also rejected the			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					defendant's argument that phrases such as "offer to vote" and "attempt to vote" should be construed as synonymous terms, as when words with similar meanings were used in the same statute, it was presumed that the legislature intended to distinguish between the terms. The order of the circuit court was reversed.			
Diaz v. Hood	United States District	342 F. Supp. 2d 1111; 2004	October 26, 2004	Plaintiffs, unions and individuals who	The putative voters sought injunctive relief	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Southern District of Florida	U.S. Dist. LEXIS 21445		had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials moved to dismiss the complaint for lack of standing	requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental capacity, the second failed to check a box			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				and failure to state a claim.	indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					injury. Standing failed against the secretary of state. The motions to dismiss the complaint were granted without prejudice.			
Charles H. Wesley Educ. Found., Inc. v. Cox	United States District Court for the Northern District of Georgia	324 F. Supp. 2d 1358; 2004 U.S. Dist. LEXIS 12120	July 1, 2004	Plaintiffs, a voter, fraternity members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in	The organization participated in numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV.</p>	<p>mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Plaintiffs' motion for a preliminary injunction was granted. Defendants were ordered to process the applications received from</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the organization to determine whether those registrants were qualified to vote. Furthermore, defendants were enjoined from rejecting any voter registration application on the grounds that it was mailed as part of a "bundle" or that it was collected by someone not authorized or any other reason contrary to the NVRA.			
Moseley v. Price	United States	300 F. Supp. 2d	January 22, 2004	Plaintiff alleged, that	The court concluded that	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	District Court for the Eastern District of Virginia	389; 2004 U.S. Dist. LEXIS 850		defendants' actions in investigating his voter registration application constituted a change in voting procedures requiring § 5 preclearance under the Voting Rights Act, which preclearance was never sought or received. Plaintiff claimed he withdrew from the race for Commonwealth Attorney because of the investigation.	plaintiff's claim under the Voting Rights Act lacked merit. Plaintiff did not allege, as required, that any defendants implemented a new, uncleared voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. Here, the existing practice or procedure in effect in the event a mailed registration card was			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Defendants moved to dismiss the complaint.</p>	<p>returned was to "resend the voter card, if address verified as correct." This was what precisely occurred. Plaintiff inferred, however, that the existing voting rule or practice was to resend the voter card "with no adverse consequences" and that the county's initiation of an investigation constituted the implementation of a change that had not been pre--cleared.</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The court found the inference wholly unwarranted because nothing in the written procedure invited or justified such an inference. The court opined that common sense and state law invited a different inference, namely that while a returned card had to be resent if the address was verified as correct, any allegation of</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					fraud could be investigated. Therefore, there was no new procedure for which preclearance was required. The court dismissed plaintiff's federal claims. The court dismissed the state law claims without prejudice.			
Thompson v. Karben	Supreme Court of New York, Appellate Division, Second Department	295 A.D.2d 438; 743 N.Y.S.2d 175; 2002 N.Y. App. Div. LEXIS 6101	June 10, 2002	Respondents filed a motion seeking the cancellation of appellant's voter registration and political party enrollment on the ground that	Respondents alleged that appellant was unlawfully registered to vote from an address at which he did not reside and that he should	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellant was unlawfully registered to vote in a particular district. The Supreme Court, Rockland County, New York, ordered the cancellation of appellant's voter registration and party enrollment. Appellant challenged the trial court's order.</p>	<p>have voted from the address that he claimed as his residence. The appellate court held that respondents adduced insufficient proof to support the conclusion that appellant did not reside at the subject address. On the other hand, appellant submitted copies of his 2002 vehicle registration, 2000 and 2001 federal income tax returns, 2002 property tax bill, a May</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>2001 paycheck stub, and 2000 and 2001 retirement account statements all showing the subject address. Appellant also testified that he was a signatory on the mortgage of the subject address and that he kept personal belongings at that address. Respondents did not sustain their evidentiary burden. The judgment of the trial court was reversed.</p>			
Nat'l Coalition	United	2002 U.S.	August 2,	Plaintiffs, a	The court	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
v. Taft	States District Court for the Southern District of Ohio	Dist. LEXIS 22376	2002	nonprofit public interest group and certain individuals, sued defendants, certain state and university officials, alleging that they violated the National Voter Registration Act in failing to designate the disability services offices at state public colleges and universities as voter registration sites. The group and individuals moved for a	found that the disability services offices at issue were subject to the NVRA because the term "office" included a subdivision of a government department or institution and the disability offices at issue were places where citizens regularly went for service and assistance. Moreover, the Ohio Secretary of State had an obligation under the NVRA to designate the			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				preliminary injunction.	disability services offices as voter registration sites because nothing in the law superceded the NVRA's requirement that the responsible state official designate disability services offices as voter registration sites. Moreover, under Ohio Rev. Code Ann. § 3501.05(R), the Secretary of State's duties expressly included			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ensuring compliance with the NVRA. The case was not moot even though the Secretary of State had taken steps to ensure compliance with the NVRA given his position to his obligation under the law. The court granted declaratory judgment in favor of the nonprofit organization and the individuals. The motion for a preliminary</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					injunction was granted in part and the Secretary of State was ordered to notify disabled students who had used the designated disability services offices prior to the opening day of the upcoming semester or who had pre-registered for the upcoming semester as to voter registration availability.			
Lawson v. Shelby County	United States Court of Appeals for the	211 F.3d 331; 2000 U.S. App. LEXIS	May 3, 2000	Plaintiffs who were denied the right to vote when they	Plaintiffs attempted to register to vote in October, and	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Sixth Circuit	8634		refused to disclose their social security numbers, appealed a judgment of the United States District Court for the Western District of Tennessee at Memphis dismissing their amended complaint for failure to state claims barred by U.S. Const. amend. XI.	to vote in November, but were denied because they refused to disclose their social security numbers. A year after the election date they filed suit alleging denial of constitutional rights, privileges and immunities, the Privacy Act of 1974 and § 1983. The district court dismissed, finding the claims were barred by U.S. Const. amend. XI, and the one			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>year statute of limitations. The appeals court reversed, holding the district court erred in dismissing the suit because U.S. Const. amend. XI immunity did not apply to suits brought by a private party under the Ex Parte Young exception. Any damages claim not ancillary to injunctive relief was barred. The court also held the statute of limitations ran from the date plaintiffs</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were denied the opportunity to vote, not register, and their claim was thus timely. Reversed and remanded to district court to order such relief as will allow plaintiffs to vote and other prospective injunctive relief against county and state officials; declaratory relief and attorneys' fees ancillary to the prospective injunctive relief, all permitted under</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the Young exception to sovereign immunity, to be fashioned.			
Curtis v. Smith	United States District Court for the Eastern District of Texas	145 F. Supp. 2d 814; 2001 U.S. Dist. LEXIS 8544	June 4, 2001	Plaintiffs, representatives of several thousand retired persons who called themselves the "Escapees," and who spent a large part of their lives traveling about the United States in recreational vehicles, but were registered to vote in the county, moved for preliminary injunction seeking to	Before a general election, three persons brought an action alleging the Escapees were not bona fide residents of the county, and sought to have their names expunged from the rolls of qualified voters. The plaintiffs brought suit in federal district court. The court issued a	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				enjoin a Texas state court proceeding under the All Writs Act.	preliminary injunction forbidding county officials from attempting to purge the voting. Commissioner contested the results of the election, alleging Escapees' votes should be disallowed. Plaintiffs brought present case assertedly to prevent the same issue from being relitigated. The court held, however, the issues were different, since,			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>unlike the case in the first proceeding, there was notice and an opportunity to be heard. Further, unlike the first proceeding, the plaintiff in the state court action did not seek to change the prerequisites for voting registration in the county, but instead challenged the actual residency of some members of the Escapees, and such challenge</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					properly belonged in the state court. The court further held that an election contest under state law was the correct vehicle to contest the registration of Escapees. The court dissolved the temporary restraining order it had previously entered and denied plaintiffs' motion for preliminary injunction of the state court proceeding.			
Pepper v. Darnell	United States Court	24 Fed. Appx. 460;	December 10, 2001	Plaintiff individual	Individual argued on	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	of Appeals for the Sixth Circuit	2001 U.S. App. LEXIS 26618		<p>appealed from a judgment of the district court, in an action against defendant state officials seeking relief under § 1983 and the National Voter Registration Act, for their alleged refusal to permit individual to register to vote. Officials had moved for dismissal or for summary judgment, and the district court granted the motion.</p>	<p>appeal that the district court erred in finding that the registration forms used by the state did not violate the NVRA and in failing to certify a class represented by individual. Individual lived in his automobile and received mail at a rented box. Officials refused to validate individual's attempt to register to vote by mail. Tennessee state law forbade</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					accepting a rented mail box as the address of the potential voter. Individual insisted that his automobile registration provided sufficient proof of residency under the NVRA. The court upheld the legality of state's requirement that one registering to vote provide a specific location as an address, regardless of the transient lifestyle of the			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>potential voter, finding state's procedure faithfully mirrored the requirements of the NVRA as codified in the Code of Federal Regulations. The court also held that the refusal to certify individual as the representative of a class for purposes of this litigation was not an abuse of discretion; in this case, no representative party was available as the</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					indigent individual, acting in his own behalf, was clearly unable to represent fairly the class. The district court's judgment was affirmed.			
Miller v. Blackwell	United States District Court for the Southern District of Ohio	348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894	October 27, 2004	Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the	Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order (TRO). Two individuals filed a motion to intervene as defendants.</p>	<p>Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of success on the merits because they made a</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court</p>			

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					also granted the individuals' motion to intervene.			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Miller v. Blackwell	United States District Court for the southern District of Ohio	348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894	October 27, 2004	Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order. Two individuals filed a motion to intervene as defendants.	Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a</p>			

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					likelihood of success on the merits because they made a strong showing that defendants' intended actions regarding pre--election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The			

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					court also granted the individuals' motion to intervene.			
Spencer v. Blackwell	United States District Court for the Southern District of Ohio	347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062	November 1, 2004	Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the polls.	The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>allowing challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. Because the voters had shown a</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					substantial likelihood of success on the merits on the ground that the application of Ohio's statute allowing challengers at polling places was unconstitutional and the other factors governing the issuance of an injunction weighed in their favor, the court enjoined all defendants from allowing any challengers other than election judges and other electors into the polling places throughout the			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					state on Election Day.			
Charfauros v. Bd. of Elections	United States Court of Appeals for the Ninth Circuit	2001 U.S. App. LEXIS 15083	May 10, 2001	Defendants, board of elections and related individuals, appealed from an order of the Supreme Court of the Commonwealth of the Northern Mariana Islands reversing a lower court's grant of summary judgment in favor of defendants on the ground of qualified immunity.	Plaintiffs, disqualified voters, claimed that individual members of the Commonwealth of the Northern Mariana Islands Board of Elections violated § 1983 by administering pre--election day voter challenge procedures which precluded a certain class of voters, including plaintiffs, from voting in a 1995 election. The CNMI Supreme Court reversed a lower court's grant of summary	No	N/A	No

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 Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>judgment and defendants appealed. The court of appeals held that the Board's pre-election day procedures violated the plaintiffs' fundamental right to vote. The federal court reasoned that the right to vote was clearly established at the time of the election, and that a reasonable Board would have known that that treating voters differently based on their political party would violate the Equal</p>			

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 Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Protection Clause. Further the court added that the allegations of the complaint were sufficient to support liability of the Board members in their individual capacities. Finally, the composition of the CNMI Supreme Court's Special Judge panel did not violate the Board's right to due process of law. The decision of Commonwealth of the Northern Mariana Islands Supreme Court was affirmed</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					where defendants' pre--election day voter challenge procedures violated plaintiffs' fundamental right to vote.			
Wit v. Berman	United States Court of Appeals for the Second Circuit	306 F.3d 1256; 2002 U.S. App. LEXIS 21301	October 11, 2002	Appellant voters who established residences in two separate cities sued appellees, state and city election officials, alleging that provisions of the New York State Election Law unconstitutionally prevented the voters from voting in local elections in both cities where they resided. The voters appealed the order of the	Under state election laws, the voters could only vote in districts in which they resided, and residence was limited to one place. The voters contended that, since they had two lawful residences, they were denied constitutional equal protection by the statutory restriction against voting in the local elections of both	No	N/A	No

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>United States District Court for the Southern District of New York which granted appellees' motion to dismiss the complaint.</p>	<p>of the places of their residences. The appellate court held, however, that no constitutional violation was shown since the provisions of the New York State Election Law imposed only reasonable, nondiscriminatory restrictions which advanced important state regulatory interests. While the voters may have interests in electoral outcomes in both cities, any rule permitting voting based on such interests would be</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>unmanageable and subject to potential abuse. Further, basing voter eligibility on domicile, which was always over--or under--inclusive, nonetheless had enormous practical advantages, and the voters offered no workable standard to replace the domicile test. Finally, allowing the voters to choose which of their residences was their domicile for voting purposes could not be deemed</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					discriminatory. Affirmed.			
Curtis v. Smith	United States District Court for the Eastern District of Texas	121 F. Supp. 2d 1054; 2000 U.S. Dist. LEXIS 17987	November 3, 2000	Plaintiffs sought a preliminary injunction to prohibit defendant tax assessor-collector from mailing confirmation letters to approximately 9,000 persons who were registered voters in Polk County, Texas.	Plaintiffs sought to prohibit defendant from mailing confirmation letters to approximately 9,000 persons, self--styled "escapees" who traveled a major portion of each year in recreational vehicles, all of whom were registered to vote in Polk County, Texas. In accordance with Texas law, three resident voters filed affidavits challenging the escapees'	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>residency. These affidavits triggered defendant's action in sending confirmation notices to the escapees. The court determined, first, that because of the potential for discrimination, defendant's action required preclearance in accordance with § 5 of the Voting Rights Act and, second, that such preclearance had not been sought or obtained. Accordingly, the court issued a preliminary injunction</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>prohibiting defendant from pursuing the confirmation of residency of the escapees, or any similarly situated group, under the Texas Election Code until the process had been submitted for preclearance in accordance with § 5. The action was taken to ensure that no discriminatory potential existed in the use of such process in the upcoming presidential election or future election. Motion for preliminary injunction was</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					granted, and defendant was enjoined from pursuing confirmation of residency of the 9,000 "escapees," or any similarly situated group, under the Texas Election Code, until the process had been submitted for preclearance under § 5 of the Voting Rights Act.			
Peace & Freedom Party v. Shelley	Court of Appeal of California, Third Appellate District	114 Cal. App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42	January 15, 2004	Plaintiff political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel	The trial court ruled that inactive voters were excluded from the primary election. The court of appeals affirmed, observing that although the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.</p>	<p>election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to</p>			

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Voter Eligibility Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					certain conditions, inactive voters in California could correct the record and vote as provided the Act. The court affirmed the denial of a writ of mandate.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				moved for summary judgment.	afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and</p>			

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					resolve that challenge, did not contravene the MVA. Defendants' motions for summary judgment were granted as to all claims with prejudice, except the voters' state--law claim, which was dismissed for want of jurisdiction, without prejudice.			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Charles H. Wesley Educ. Found., Inc. v. Cox	United States Court of Appeals for the Eleventh Circuit	408 F.3d 1349; 2005 U.S. App. LEXIS 8320	May 12, 2005	Plaintiffs, a charitable foundation, four volunteers, and a registered voter, filed a suit against defendant state officials alleging violations of the National Voter Registration Act and the Voting Rights Act. The officials appealed after the United States District Court for the Northern District of Georgia issued a preliminary injunction enjoining them from rejecting voter registrations submitted by the	The foundation conducted a voter registration drive; it placed the completed applications in a single envelope and mailed them to the Georgia Secretary of State for processing. Included in the batch was the voter's change of address form. Plaintiffs filed the suit after they were notified that the applications had been rejected pursuant to Georgia law, which allegedly restricted who could collect voter registration	No	N/A	No

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				foundation.	forms. Plaintiffs contended that the officials had violated the NVRA, the VRA, and U.S. Const. amends. I, XIV, XV. The officials argued that plaintiffs lacked standing and that the district court had erred in issuing the preliminary injunction. The court found no error. Plaintiffs had sufficiently alleged injuries under the NVRA, arising out of the rejection of the voter registration forms; the allegations in the			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint sufficiently showed an injury--in--fact that was fairly traceable to the officials' conduct. The injunction was properly issued. There was a substantial likelihood that plaintiffs would prevail as to their claims; it served the public interest to protect plaintiffs' franchise--related rights. The court affirmed the preliminary injunction order entered by the district court.</p>			
McKay v.	United	226 F.3d	September	Plaintiff	The trial court	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thompson	States Court of Appeals for the Sixth Circuit	752; 2000 U.S. App. LEXIS 23387	18, 2000	challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous case law, and could be challenged in state court. The requirement did not violate the Privacy Act of 1974, because it			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					immunities, and due process claims. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims.			
Nat'l	United	150 F.	July 5,	Plaintiff, national	Defendants	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Coalition for Students with Disabilities Educ. & Legal Def. Fund v. Scales	States District Court for the Southern District of Maryland	Supp. 2d 845; 2001 U.S. Dist. LEXIS 9528	2001	organization for disabled students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	alleged that plaintiff lacked standing to represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registered students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim, the court found that the agency practice of only offering voter</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the university. Defendants' motion to dismiss first amended</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.			
Cunningham v. Chi. Bd. of Election Comm's	United States District Court for the Northern District of Illinois	2003 U.S. Dist. LEXIS 2528	February 24, 2003	Plaintiffs, who alleged that they were duly registered voters, six of whom had signed nominating petitions for one candidate and two of whom signed	Plaintiffs argued that objections to their signatures were improperly sustained by defendants, the city board of election commissioners. Plaintiff's argued that they were	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>nominating petitions for another candidate. They first asked for a preliminary injunction of the municipal election scheduled for the following Tuesday and suggested, alternatively, that the election for City Clerk and for 4th Ward Alderman be enjoined.</p>	<p>registered voters whose names appeared in an inactive file and whose signatures were therefore, and improperly, excluded. The court ruled that by characterizing the claim as plaintiffs did, they sought to enjoin an election because their signatures were not counted, even though their preferred candidates were otherwise precluded from appearing on the ballot. Without regard to their likelihood of</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>obtaining any relief, plaintiffs failed to demonstrate that they would be irreparably harmed if an injunction did not issue; the threatened injury to defendants, responsible as they were for the conduct of the municipal election, far outweighed any threatened injury to plaintiffs; and the granting of a preliminary injunction would greatly disserve the public interest. Plaintiffs' petition for</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					preliminary relief was denied.			
Diaz v. Hood	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1111; 2004 U.S. Dist. LEXIS 21445	October 26, 2004	Plaintiffs, unions and individuals who had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials	The putative voters sought injunctive relief requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>moved to dismiss the complaint for lack of standing and failure to state a claim.</p>	<p>capacity, the second failed to check a box indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter</p>			

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 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no injury. Standing failed against the secretary of state. Motion to dismiss without</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prejudice granted.			
Bell v. Marinko	United States District Court for the Northern District of Ohio	235 F. Supp. 2d 772; 2002 U.S. Dist. LEXIS 21753	October 22, 2002	Plaintiff voters sued defendants, a county board of elections, a state secretary of state, and the state's attorney general, for violations of the Motor Voter Act and equal protection of the laws. Defendants moved for summary judgment. The voters also moved for summary judgment.	The board heard challenges to the voters' qualifications to vote in the county, based on the fact that the voters were transient (seasonal) rather than permanent residents of the county. The voters claimed that the board hearings did not afford them the requisite degree of due process and contravened their rights of privacy by inquiring into personal matters. As to the MVA	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>claim, the court held that residency within the precinct was a crucial qualification. One simply could not be an elector, much less a qualified elector entitled to vote, unless one resided in the precinct where he or she sought to vote. If one never lived within the precinct, one was not and could not be an eligible voter, even if listed on the board's rolls as such. The MVA did not affect the state's ability to</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>condition eligibility to vote on residence. Nor did it undertake to regulate challenges, such as the ones presented, to a registered voter's residency ab initio. The ability of the challengers to assert that the voters were not eligible and had not ever been eligible, and of the board to consider and resolve that challenge, did not contravene the MVA. Defendants' motions for</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					summary judgment were granted as to all claims with prejudice, except the voters' state-law claim, which was dismissed for want of jurisdiction, without prejudice.			
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19-3509.21 violated the National Voter Registration Act, and the Equal Protection Clause	The voters contested the challenges to their registration brought under Ohio Code Rev. Ann. § 3505.19 based on Ohio Rev. Code Ann. § 3503.02. Specifically, the voters asserted that § 3503.02---which stated that the place	No	N/A	No

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio granted summary judgment in favor of defendants. The voters appealed.</p>	<p>where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote</p>			

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Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Voter Registration Rejection Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>§ 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Bell v. Marinko	United States Court of Appeals for the Sixth Circuit	367 F.3d 588; 2004 U.S. App. LEXIS 8330	April 28, 2004	Plaintiffs, registered voters, sued defendants, Ohio Board of Elections and Board members, alleging that Ohio Rev. Code Ann. §§ 3509.19--3509.21 violated the National Voter Registration Act, and the Equal Protection Clause of the Fourteenth Amendment. The United States District Court for the Northern District of Ohio	The voters asserted that § 3503.02---- which stated that the place where the family of a married man or woman resided was considered to be his or her place of residence---- violated the equal protection clause. The court of appeals found that the Board's procedures did not contravene the National Voter Registration Act because Congress did	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>granted summary judgment in favor of defendants. The voters appealed.</p>	<p>not intend to bar the removal of names from the official list of persons who were ineligible and improperly registered to vote in the first place. The National Voter Registration Act did not bar the Board's continuing consideration of a voter's residence, and encouraged the Board to maintain accurate and reliable voting rolls. Ohio was free to take reasonable steps to see that</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>all applicants for registration to vote actually fulfilled the requirement of bona fide residence. Ohio Rev. Code Ann. § 3503.02(D) did not contravene the National Voter Registration Act. Because the Board did not raise an irrebuttable presumption in applying § 3502.02(D), the voters suffered no equal protection violation. The judgment was affirmed.</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Wilson v. Commonwealth	Court of Appeals of Virginia	2000 Va. App. LEXIS 322	May 2, 2000	Defendant appealed the judgment of the circuit court which convicted her of election fraud.	On appeal, defendant argued that the evidence was insufficient to support her conviction because it failed to prove that she made a willfully false statement on her voter registration form and, even if the evidence did prove that she made such a statement, it did not prove that the voter registration form was the form required by Title 24.2. At trial, the Commonwealth	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					introduced substantial testimony and documentary evidence that defendant had continued to live at one residence in the 13th District, long after she stated on the voter registration form that she was living at a residence in the 51st House District. The evidence included records showing electricity and water usage, records from the Department			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>of Motor Vehicles and school records. Thus, the evidence was sufficient to support the jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed by Title 24.2 in order for her to be a candidate for office in the primary in question. Judgment of conviction affirmed. Evidence, including</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					records showing electricity and water usage, records from the Department of Motor Vehicles and school records, was sufficient to support jury's verdict that defendant made "a false material statement" on the voter registration card required to be filed in order for her to be a candidate for office in the primary in question.			
ACLU of Minn. v.	United States	2004 U.S. Dist.	October 29, 2004	Plaintiffs, voters and	Plaintiffs argued that	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Kiffmeyer	District Court for the District of Minnesota	LEXIS 22996		associations, filed for a temporary restraining order pursuant to Fed. R. Civ. P. 65, against defendant, Minnesota Secretary of State, concerning voter registration.	Minn. Stat. § 201.061 was inconsistent with the Help America Vote Act because it did not authorize the voter to complete registration either by a "current and valid photo identification" or by use of a current utility bill, bank statement, government check, paycheck, or other government document that showed the name and			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>address of the individual. The Secretary advised the court that there were less than 600 voters who attempted to register by mail but whose registrations were deemed incomplete. The court found that plaintiffs demonstrated that they were likely to succeed on their claim that the authorization in Minn. Stat. § 201.061, sub. 3, violated the Equal</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Protection Clause of the Fourteenth Amendment of the United States Constitution insofar as it did not also authorize the use of a photographic tribal identification card by American Indians who do not reside on their tribal reservations. Also, the court found that plaintiffs demonstrated that they were likely to succeed on			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					their claims that Minn. R. 8200.5100, violated the Equal Protection Clause of the United States Constitution. A temporary restraining order was entered.			
Kalsson v. United States FEC	United States District Court for the Southern District of New York	356 F. Supp. 2d 371; 2005 U.S. Dist. LEXIS 2279	February 16, 2005	Defendant Federal Election Commission filed a motion to dismiss for lack of subject matter jurisdiction plaintiff individual's action, which sought a declaration that	The individual claimed that his vote was diluted because the NVRA resulted in more people registering to vote than otherwise would have been the case. The court held that the	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>the National Voter Registration Act was unconstitutional on the theories that its enactment was not within the enumerated powers of the federal government and that it violated Article II of the United States Constitution.</p>	<p>individual lacked standing to bring the action. Because New York was not obliged to adhere to the requirements of the NVRA, the individual did not allege any concrete harm. If New York simply adopted election day registration for elections for federal office, it would have been entirely free of the NVRA just as were five other states. Even if the individual's vote were diluted, and</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>even if such an injury in other circumstances might have sufficed for standing, any dilution that he suffered was the result of New York's decision to maintain a voter registration system that brought it under the NVRA, not the NVRA itself. The court granted the motion to dismiss for lack of subject matter jurisdiction.</p>			
Peace &	California	114 Cal.	January 15,	Plaintiff	The trial court	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Freedom Party v. Shelley	Court of Appeal, Third Appellate District	App. 4th 1237; 8 Cal. Rptr. 3d 497; 2004 Cal. App. LEXIS 42	2004	political party appealed a judgment from the superior court which denied the party's petition for writ of mandate to compel defendant, the California Secretary of State, to include voters listed in the inactive file of registered voters in calculating whether the party qualified to participate in a primary election.	ruled that inactive voters were excluded from the primary election calculation. The court of appeals affirmed, observing that although the election had already taken place, the issue was likely to recur and was a matter of continuing public interest and importance; hence, a decision on the merits was proper, although the			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>case was technically moot. The law clearly excluded inactive voters from the calculation. The statutory scheme did not violate the inactive voters' constitutional right of association because it was reasonably designed to ensure that all parties on the ballot had a significant modicum of support from eligible voters. Information in the inactive file</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>was unreliable and often duplicative of information in the active file. Moreover, there was no violation of the National Voter Registration Act because voters listed as inactive were not prevented from voting. Although the Act prohibited removal of voters from the official voting list absent certain conditions, inactive voters in California could correct the record and</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					vote. Affirmed.			
McKay v. Thompson	United States Court of Appeals for the Sixth Circuit	226 F.3d 752; 2000 U.S. App. LEXIS 23387	September 18, 2000	Plaintiff challenged order of United States District Court for Eastern District of Tennessee at Chattanooga, which granted defendant state election officials summary judgment on plaintiff's action seeking to stop the state practice of requiring its citizens to disclose their social security numbers as a precondition to voter registration.	The trial court had granted defendant state election officials summary judgment. The court declined to overrule defendants' administrative determination that state law required plaintiff to disclose his social security number because the interpretation appeared to be reasonable, did not conflict with previous caselaw, and could be	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>challenged in state court. The requirement did not violate the Privacy Act because it was grand fathered under the terms of the Act. The limitations in the National Voter Registration Act did not apply because the NVRA did not specifically prohibit the use of social security numbers and the Act contained a more specific provision regarding such use. Plaintiff</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>could not enforce § 1971 as it was enforceable only by the United States Attorney General. The trial court properly rejected plaintiff's fundamental right to vote, free exercise of religion, privileges and immunities, and due process claims. Although the trial court arguably erred in denying certification of the case to the USAG under</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					28 U.S.C.S. § 2403(a), plaintiff suffered no harm from the technical violation. Order affirmed because requirement that voters disclose social security numbers as precondition to voter registration did not violate Privacy Act of 1974 or National Voter Registration Act and trial court properly rejected plaintiff's fundamental			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					right to vote, free exercise of religion, privileges and immunities, and due process claims.			
Lucas County Democratic Party v. Blackwell	United States District Court for the Northern District of Ohio	341 F. Supp. 2d 861; 2004 U.S. Dist. LEXIS 21416	October 21, 2004	Plaintiff organizations brought an action challenging a memorandum issued by defendant, Ohio's Secretary of State, in December 2003. The organizations claimed that the memorandum contravened provisions of the Help America Vote	The case involved a box on Ohio's voter registration form that required a prospective voter who registered in person to supply an Ohio driver's license number or the last four digits of their Social Security number. In his memorandum, the Secretary informed all	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Act and the National Voter Registration Act. The organizations moved for a preliminary injunction.</p>	<p>Ohio County Boards of Elections that, if a person left the box blank, the Boards were not to process the registration forms. The organizations did not file their suit until 18 days before the national election. The court found that there was not enough time before the election to develop the evidentiary record necessary to determine if the organizations</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were likely to succeed on the merits of their claim. Denying the organizations' motion would have caused them to suffer no irreparable harm. There was no appropriate remedy available to the organizations at the time. The likelihood that the organizations could have shown irreparable harm was, in any event, slight in view of the fact that</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					they waited so long before filing suit. Moreover, it would have been entirely improper for the court to order the Boards to re--open in--person registration until election day. The public interest would have been ill--served by an injunction. The motion for a preliminary injunction was denied sua sponte.			
Nat'l Coalition for Students with Disabilities	United States District Court for	150 F. Supp. 2d 845; 2001 U.S. Dist.	July 5, 2001	Plaintiff, national organization for disabled	Defendants alleged that plaintiff lacked standing to	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Educ. & Legal Def. Fund v. Scales	the District of Maryland	LEXIS 9528		students, brought an action against university president and university's director of office of disability support services to challenge the voter registration procedures established by the disability support services. Defendants moved to dismiss the first amended complaint, or in the alternative for summary judgment.	represent its members, and that plaintiff had not satisfied the notice requirements of the National Voter Registration Act. Further, defendants maintained the facts, as alleged by plaintiff, did not give rise to a past, present, or future violation of the NVRA because (1) the plaintiff's members that requested voter registration services were not registered			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>students at the university and (2) its current voter registration procedures complied with NVRA. As to plaintiff's § 1983 claim, the court held that while plaintiff had alleged sufficient facts to confer standing under the NVRA, such allegations were not sufficient to support standing on its own behalf on the § 1983 claim. As to the NVRA claim,</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the court found that the agency practice of only offering voter registration services at the initial intake interview and placing the burden on disabled students to obtain voter registration forms and assistance afterwards did not satisfy its statutory duties. Furthermore, most of the NVRA provisions applied to disabled applicants not registered at the</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>university. Defendants' motion to dismiss first amended complaint was granted as to the § 1983 claim and denied as to plaintiff's claims brought under the National Voter Registration Act of 1993. Defendants' alternative motion for summary judgment was denied.</p>			
People v. Disimone	Court of Appeals of Michigan	251 Mich. App. 605; 650 N.W.2d 436; 2002	July 11, 2002	Defendant was charged with attempting to vote more than once in the	Defendant was registered in the Colfax township for the 2000	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		Mich. App. LEXIS 826		2000 general election. The circuit court granted defendant's motion that the State had to prove specific intent. The State appealed.	general election. After presenting what appeared to be a valid voter's registration card, defendant proceeded to vote in the Grant township. Defendant had voted in the Colfax township earlier in the day. Defendant moved the court to issue an order that the State had to find that he had a specific intent to vote twice in order to be convicted. The appellate court			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					reversed the circuit court judgment and held that under the rules of statutory construction, the fact that the legislature had specifically omitted certain trigger words such as "knowingly," "willingly," "purposefully," or "intentionally" it was unlikely that the legislature had intended for this to be a specific intent crime. The court also rejected the			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					defendant's argument that phrases such as "offer to vote" and "attempt to vote" should be construed as synonymous terms, as when words with similar meanings were used in the same statute, it was presumed that the legislature intended to distinguish between the terms. The order of the circuit court was reversed.			
Diaz v. Hood	United States District	342 F. Supp. 2d 1111; 2004	October 26, 2004	Plaintiffs, unions and individuals who	The putative voters sought injunctive relief	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Southern District of Florida	U.S. Dist. LEXIS 21445		had attempted to register to vote, sought a declaration of their rights to vote in the November 2, 2004 general election. They alleged that defendants, state and county election officials, refused to process their voter registrations for various failures to complete the registration forms. The election officials moved to dismiss the complaint for lack of standing	requiring the election officials to register them to vote. The court first noted that the unions lacked even representative standing, because they failed to show that one of their members could have brought the case in their own behalf. The individual putative voters raised separate issues: the first had failed to verify her mental capacity, the second failed to check a box			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				and failure to state a claim.	indicating that he was not a felon, and the third did not provide the last four digits of her social security number on the form. They claimed the election officials violated federal and state law by refusing to register eligible voters because of nonmaterial errors or omissions in their voter registration applications, and by failing to provide any notice to voter			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>applicants whose registration applications were deemed incomplete. In the first two cases, the election official had handled the errant application properly under Florida law, and the putative voter had effectively caused their own injury by failing to complete the registration. The third completed her form and was registered, so had suffered no</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					injury. Standing failed against the secretary of state. The motions to dismiss the complaint were granted without prejudice.			
Charles H. Wesley Educ. Found., Inc. v. Cox	United States District Court for the Northern District of Georgia	324 F. Supp. 2d 1358; 2004 U.S. Dist. LEXIS 12120	July 1, 2004	Plaintiffs, a voter, fraternity members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in	The organization participated in numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter Registration Act and U.S. Const. amends. I, XIV, and XV.</p>	<p>mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that: plaintiffs had a substantial likelihood of prevailing on the merits of their claim that</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Plaintiffs' motion for a preliminary injunction was granted. Defendants were ordered to process the applications received from</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>the organization to determine whether those registrants were qualified to vote. Furthermore, defendants were enjoined from rejecting any voter registration application on the grounds that it was mailed as part of a "bundle" or that it was collected by someone not authorized or any other reason contrary to the NVRA.</p>			
Moseley v. Price	United States	300 F. Supp. 2d	January 22, 2004	Plaintiff alleged, that	The court concluded that	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	District Court for the Eastern District of Virginia	389; 2004 U.S. Dist. LEXIS 850		defendants' actions in investigating his voter registration application constituted a change in voting procedures requiring § 5 preclearance under the Voting Rights Act, which preclearance was never sought or received. Plaintiff claimed he withdrew from the race for Commonwealth Attorney because of the investigation.	plaintiff's claim under the Voting Rights Act lacked merit. Plaintiff did not allege, as required, that any defendants implemented a new, uncleared voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting. Here, the existing practice or procedure in effect in the event a mailed registration card was			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Defendants moved to dismiss the complaint.</p>	<p>returned was to "resend the voter card, if address verified as correct." This was what precisely occurred. Plaintiff inferred, however, that the existing voting rule or practice was to resend the voter card "with no adverse consequences" and that the county's initiation of an investigation constituted the implementation of a change that had not been pre--cleared.</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The court found the inference wholly unwarranted because nothing in the written procedure invited or justified such an inference. The court opined that common sense and state law invited a different inference, namely that while a returned card had to be resent if the address was verified as correct, any allegation of</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					fraud could be investigated. Therefore, there was no new procedure for which preclearance was required. The court dismissed plaintiff's federal claims. The court dismissed the state law claims without prejudice.			
Thompson v. Karben	Supreme Court of New York, Appellate Division, Second Department	295 A.D.2d 438; 743 N.Y.S.2d 175; 2002 N.Y. App. Div. LEXIS 6101	June 10, 2002	Respondents filed a motion seeking the cancellation of appellant's voter registration and political party enrollment on the ground that	Respondents alleged that appellant was unlawfully registered to vote from an address at which he did not reside and that he should	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellant was unlawfully registered to vote in a particular district. The Supreme Court, Rockland County, New York, ordered the cancellation of appellant's voter registration and party enrollment. Appellant challenged the trial court's order.</p>	<p>have voted from the address that he claimed as his residence. The appellate court held that respondents adduced insufficient proof to support the conclusion that appellant did not reside at the subject address. On the other hand, appellant submitted copies of his 2002 vehicle registration, 2000 and 2001 federal income tax returns, 2002 property tax bill, a May</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					2001 paycheck stub, and 2000 and 2001 retirement account statements all showing the subject address. Appellant also testified that he was a signatory on the mortgage of the subject address and that he kept personal belongings at that address. Respondents did not sustain their evidentiary burden. The judgment of the trial court was reversed.			
Nat'l Coalition	United	2002 U.S.	August 2,	Plaintiffs, a	The court	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
v. Taft	States District Court for the Southern District of Ohio	Dist. LEXIS 22376	2002	nonprofit public interest group and certain individuals, sued defendants, certain state and university officials, alleging that they violated the National Voter Registration Act in failing to designate the disability services offices at state public colleges and universities as voter registration sites. The group and individuals moved for a	found that the disability services offices at issue were subject to the NVRA because the term "office" included a subdivision of a government department or institution and the disability offices at issue were places where citizens regularly went for service and assistance. Moreover, the Ohio Secretary of State had an obligation under the NVRA to designate the			

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				preliminary injunction.	disability services offices as voter registration sites because nothing in the law superceded the NVRA's requirement that the responsible state official designate disability services offices as voter registration sites. Moreover, under Ohio Rev. Code Ann. § 3501.05(R), the Secretary of State's duties expressly included			

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					<p>ensuring compliance with the NVRA. The case was not moot even though the Secretary of State had taken steps to ensure compliance with the NVRA given his position to his obligation under the law. The court granted declaratory judgment in favor of the nonprofit organization and the individuals. The motion for a preliminary</p>			

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					injunction was granted in part and the Secretary of State was ordered to notify disabled students who had used the designated disability services offices prior to the opening day of the upcoming semester or who had pre-registered for the upcoming semester as to voter registration availability.			
Lawson v. Shelby County	United States Court of Appeals for the	211 F.3d 331; 2000 U.S. App. LEXIS	May 3, 2000	Plaintiffs who were denied the right to vote when they	Plaintiffs attempted to register to vote in October, and	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Sixth Circuit	8634		refused to disclose their social security numbers, appealed a judgment of the United States District Court for the Western District of Tennessee at Memphis dismissing their amended complaint for failure to state claims barred by U.S. Const. amend. XI.	to vote in November, but were denied because they refused to disclose their social security numbers. A year after the election date they filed suit alleging denial of constitutional rights, privileges and immunities, the Privacy Act of 1974 and § 1983. The district court dismissed, finding the claims were barred by U.S. Const. amend. XI, and the one			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>year statute of limitations. The appeals court reversed, holding the district court erred in dismissing the suit because U.S. Const. amend. XI immunity did not apply to suits brought by a private party under the Ex Parte Young exception. Any damages claim not ancillary to injunctive relief was barred. The court also held the statute of limitations ran from the date plaintiffs</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were denied the opportunity to vote, not register, and their claim was thus timely. Reversed and remanded to district court to order such relief as will allow plaintiffs to vote and other prospective injunctive relief against county and state officials; declaratory relief and attorneys' fees ancillary to the prospective injunctive relief, all permitted under</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the Young exception to sovereign immunity, to be fashioned.			
Curtis v. Smith	United States District Court for the Eastern District of Texas	145 F. Supp. 2d 814; 2001 U.S. Dist. LEXIS 8544	June 4, 2001	Plaintiffs, representatives of several thousand retired persons who called themselves the "Escapees," and who spent a large part of their lives traveling about the United States in recreational vehicles, but were registered to vote in the county, moved for preliminary injunction seeking to	Before a general election, three persons brought an action alleging the Escapees were not bona fide residents of the county, and sought to have their names expunged from the rolls of qualified voters. The plaintiffs brought suit in federal district court. The court issued a	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				enjoin a Texas state court proceeding under the All Writs Act.	preliminary injunction forbidding county officials from attempting to purge the voting. Commissioner contested the results of the election, alleging Escapees' votes should be disallowed. Plaintiffs brought present case assertedly to prevent the same issue from being relitigated. The court held, however, the issues were different, since,			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>unlike the case in the first proceeding, there was notice and an opportunity to be heard. Further, unlike the first proceeding, the plaintiff in the state court action did not seek to change the prerequisites for voting registration in the county, but instead challenged the actual residency of some members of the Escapees, and such challenge</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					properly belonged in the state court. The court further held that an election contest under state law was the correct vehicle to contest the registration of Escapees. The court dissolved the temporary restraining order it had previously entered and denied plaintiffs' motion for preliminary injunction of the state court proceeding.			
Pepper v. Darnell	United States Court	24 Fed. Appx. 460;	December 10, 2001	Plaintiff individual	Individual argued on	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	of Appeals for the Sixth Circuit	2001 U.S. App. LEXIS 26618		<p>appealed from a judgment of the district court, in an action against defendant state officials seeking relief under § 1983 and the National Voter Registration Act, for their alleged refusal to permit individual to register to vote. Officials had moved for dismissal or for summary judgment, and the district court granted the motion.</p>	<p>appeal that the district court erred in finding that the registration forms used by the state did not violate the NVRA and in failing to certify a class represented by individual. Individual lived in his automobile and received mail at a rented box. Officials refused to validate individual's attempt to register to vote by mail. Tennessee state law forbade</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>accepting a rented mail box as the address of the potential voter. Individual insisted that his automobile registration provided sufficient proof of residency under the NVRA. The court upheld the legality of state's requirement that one registering to vote provide a specific location as an address, regardless of the transient lifestyle of the</p>			

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					<p>potential voter, finding state's procedure faithfully mirrored the requirements of the NVRA as codified in the Code of Federal Regulations. The court also held that the refusal to certify individual as the representative of a class for purposes of this litigation was not an abuse of discretion; in this case, no representative party was available as the</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					indigent individual, acting in his own behalf, was clearly unable to represent fairly the class. The district court's judgment was affirmed.			
Miller v. Blackwell	United States District Court for the Southern District of Ohio	348 F. Supp. 2d 916; 2004 U.S. Dist. LEXIS 24894	October 27, 2004	Plaintiffs, two voters and the Ohio Democratic Party, filed suit against defendants, the Ohio Secretary of State, several county boards of elections, and all of the boards' members, alleging claims under the	Plaintiffs alleged that the timing and manner in which defendants intended to hold hearings regarding pre-election challenges to their voter registration violated both the Act and the Due Process	No	N/A	No

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>National Voter Registration Act and § 1983. Plaintiffs also filed a motion for a temporary restraining order (TRO). Two individuals filed a motion to intervene as defendants.</p>	<p>Clause. The individuals, who filed pre-election voter eligibility challenges, filed a motion to intervene. The court held that it would grant the motion to intervene because the individuals had a substantial legal interest in the subject matter of the action and time constraints would not permit them to bring separate actions to protect their rights. The</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court further held that it would grant plaintiffs' motion for a TRO because plaintiffs made sufficient allegations in their complaint to establish standing and because all four factors to consider in issuing a TRO weighed heavily in favor of doing so. The court found that plaintiffs demonstrated a likelihood of success on the merits because they made a</p>			

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Voter Registration Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>strong showing that defendants' intended actions regarding pre-election challenges to voter eligibility abridged plaintiffs' fundamental right to vote and violated the Due Process Clause. Thus, the other factors to consider in granting a TRO automatically weighed in plaintiffs' favor. The court granted plaintiffs' motion for a TRO. The court</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					also granted the individuals' motion to intervene.			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
James v. Bartlett	Supreme Court of North Carolina	359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146	February 4, 2005	Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed.	The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out--of--precinct provisional	No	N/A	No

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots to be counted in state and local elections. The candidates failure to challenge the counting of out-of-precinct provisional ballots before the election did not render their action untimely. Reversed and remanded.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	387 F.3d 565; 2004 U.S. App. LEXIS 22320	October 26, 2004	Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast	The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42	No	N/A	No

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p>	<p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p>			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted. Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered</p>			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					legal votes. Affirmed in part and reversed in part.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p>			

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					<p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					under § 1983 to raise the federal-law claims. Affirmed.			
Fla. Democratic Party v. Hood	United States District Court for the Northern District of Florida	342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720	October 21, 2004	Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings.	The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise	No	N/A	No

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p>			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p>			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					was cast in the proper precinct under State law.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss.	The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					even if the cost, in terms of uncounted ballots, was regrettable.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	386 F.3d 815; 2004 U.S. App. LEXIS 28765	October 23, 2004	Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements.	On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive	No	N/A	No

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.			
Hawkins v. Blunt	United States District Court for the Western District of Missouri	2004 U.S. Dist. LEXIS 21512	October 12, 2004	In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved	The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements.	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				for summary judgment.	The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot, the voter would first be directed to his proper polling place.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551	October 13, 2004	Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal	The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>legislation. Defendants filed a motion to transfer venue.</p>	<p>venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a			

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Provisional Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872	October 19, 2004	Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a	The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p>	<p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first-time voters who registered by mail were consistent with federal and state law.			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
James v. Bartlett	Supreme Court of North Carolina	359 N.C. 260; 607 S.E.2d 638; 2005 N.C. LEXIS 146	February 4, 2005	Appellant candidates challenged elections in the superior court through appeals of election protests before the North Carolina State Board of Elections and a declaratory judgment action in the superior court. The court entered an order granting summary judgment in favor of appellees, the Board, the Board's executive director, the Board's members, and the North Carolina Attorney General. The candidates appealed.	The case involved three separate election challenges. The central issue was whether a provisional ballot cast on election day at a precinct other than the voter's correct precinct of residence could be lawfully counted in final election tallies. The superior court held that it could be counted. On appeal, the supreme court determined that state law did not permit out-of-precinct provisional	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots to be counted in state and local elections. The candidates failure to challenge the counting of out--of--precinct provisional ballots before the election did not render their action untimely. Reversed and remanded.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	387 F.3d 565; 2004 U.S. App. LEXIS 22320	October 26, 2004	Defendant state appealed from an order of the U.S. District Court for the Northern District of Ohio which held that the Help America Vote Act required that voters be permitted to cast	The district court found that HAVA created an individual right to cast a provisional ballot, that this right is individually enforceable under 42	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>provisional ballots upon affirming their registration to vote in the county in which they desire to vote and that provisional ballots must be counted as valid ballots when cast in the correct county.</p>	<p>U.S.C.S. § 1983, and that plaintiffs unions and political parties had standing to bring a § 1983 action on behalf of Ohio voters. The court of appeals agreed that the political parties and unions had associational standing to challenge the state's provisional voting directive. Further, the court determined that HAVA was quintessentially about being able to cast a provisional</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot but that the voter casts a provisional ballot at the peril of not being eligible to vote under state law; if the voter is not eligible, the vote will then not be counted. Accordingly, the court of appeals reversed the district court and held that "provisional" ballots cast in a precinct where a voter does not reside and which would be invalid under state law, are not required by the HAVA to be considered			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					legal votes. Affirmed in part and reversed in part.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio 4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot, sought review of a judgment from the court of appeals which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	The Secretary of State issued a directive to all Ohio county boards of elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots were not counted. They, together with a political activist group, brought the mandamus action to compel appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The trial court dismissed the complaint, finding that no clear legal right was established</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>under Ohio law and the federal claims could be adequately raised in an action under 42 U.S.C.S. § 1983. On appeal, the Ohio Supreme Court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					under § 1983 to raise the federal-law claims. Affirmed.			
Fla. Democratic Party v. Hood	United States District Court for the Northern District of Florida	342 F. Supp. 2d 1073; 2004 U.S. Dist. LEXIS 21720	October 21, 2004	Plaintiff political party sought injunctive relief under the Help America Vote Act, claiming that the election system put in place by defendant election officials violated HAVA because it did not allow provisional voting other than in the voter's assigned precinct. The officials moved for judgment on the pleadings.	The political party asserted that a prospective voter in a federal election had the right to cast a provisional ballot at a given polling place, even if the local officials asserted that the voter was at the wrong polling place; second, that voter had the right to have that vote counted in the election, if the voter otherwise	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>met all requirements of state law. The court noted that the right to vote was clearly protectable as a civil right, and a primary purpose of the HAVA was to preserve the votes of persons who had incorrectly been removed from the voting rolls, and thus would not be listed as voters at what would otherwise have been the correct polling place. The irreparable injury to a voter was easily sufficient to</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>outweigh any harm to the officials. Therefore, the court granted relief as to the first claim, allowing the unlisted voter to cast a provisional ballot, but denied relief as to the second claim, that the ballot at the wrong place must be counted if it was cast at the wrong place, because that result contradicted State law. The provisional ballot could only be counted if it</p>			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					was cast in the proper precinct under State law.			
League of Women Voters v. Blackwell	United States District Court for the Northern District of Ohio	340 F. Supp. 2d 823; 2004 U.S. Dist. LEXIS 20926	October 20, 2004	Plaintiff organizations filed suit against defendant, Ohio's Secretary of State, claiming that a directive issued by the Secretary contravened the provisions of the Help America Vote Act. The Secretary filed a motion to dismiss.	The directive in question instructed election officials to issue provisional ballots to first-time voters who registered by mail but did not provide documentary identification at the polling place on election day. When submitting a provisional ballot, a first-time voter could identify himself by providing his driver's license number or the	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					last four digits of his social security number. If he did not know either number, he could provide it before the polls closed. If he did not do so, his provisional ballot would not be counted. The court held that the directive did not contravene the HAVA and otherwise established reasonable requirements for confirming the identity of first-time voters who registered to vote by mail because: (1) the			

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					identification procedures were an important bulwark against voter misconduct and fraud; (2) the burden imposed on first--time voters to confirm their identity, and thus show that they were voting legitimately, was slight; and (3) the number of voters unable to meet the burden of proving their identity was likely to be very small. Thus, the balance of interests favored the directive,			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					even if the cost, in terms of uncounted ballots, was regrettable.			
Sandusky County Democratic Party v. Blackwell	United States Court of Appeals for the Sixth Circuit	386 F.3d 815; 2004 U.S. App. LEXIS 28765	October 23, 2004	Defendant Ohio Secretary of State challenged an order of the United States District Court for the Northern District of Ohio, which held that Ohio Secretary of State Directive 2004--33 violated the federal Help America Vote Act. In its order, the district court directed the Secretary to issue a revised directive that conformed to HAVA's requirements.	On appeal, the court held that the district court correctly ruled that the right to cast a provisional ballot in federal elections was enforceable under 42 U.S.C.S. § 1983 and that at least one plaintiff had standing to enforce that right in the district court. The court also held that Ohio Secretary of State Directive	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>2004--33 violated HAVA to the extent that it failed to ensure that any individual affirming that he or she was a registered voter in the jurisdiction in which he or she desired to vote and eligible to vote in a federal election was permitted to cast a provisional ballot. However, the district court erred in holding that HAVA required that a voter's provisional ballot be counted as a</p>			

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Provisional Ballot Cases - 2

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					valid ballot if it was cast anywhere in the county in which the voter resided, even if it was cast outside the precinct in which the voter resided.			
Hawkins v. Blunt	United States District Court for the Western District of Missouri	2004 U.S. Dist. LEXIS 21512	October 12, 2004	In an action filed by plaintiffs, voters and a state political party, contending that the provisional voting requirements of Mo. Rev. Stat. § 115.430 conflicted with and was preempted by the Help America Vote Act, plaintiffs and defendants, the secretary of state and others, moved	The court held that the text of the HAVA, as well as its legislative history, proved that it could be read to include reasonable accommodations of state precinct voting practices in implementing provisional voting requirements.	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				for summary judgment.	The court further held that Mo. Rev. Stat. § 115.430.2 was reasonable; to effectuate the HAVA's intent and to protect that interest, it could not be unreasonable to direct a voter to his correct voting place where a full ballot was likely to be cast. The court also held that plaintiffs' equal protection rights were not violated by the requirement that before a voter would be allowed to cast a provisional			

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 Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballot, the voter would first be directed to his proper polling place.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	340 F. Supp. 2d 802; 2004 U.S. Dist. LEXIS 20551	October 13, 2004	Plaintiffs, state and county Democratic parties, filed an action against defendant, Michigan secretary of state and the Michigan director of elections, alleging that the state's intended procedure for casting and counting provisional ballots at the upcoming general election would violate the Help America Vote Act and state laws implementing the federal	The parties claimed that if the secretary's proposed procedure was allowed to occur, several voters who were members of the parties' respective organizations were likely to be disenfranchised. Defendants moved to transfer venue of the action to the Western District of Michigan claiming that the only proper	No	N/A	No

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 Provisional Ballot Cases - 2

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				legislation. Defendants filed a motion to transfer venue.	venue for an action against a state official is the district that encompasses the state's seat of government. Alternatively, defendants sought transfer for the convenience of the parties and witnesses. The court found that defendants' arguments were not supported by the plain language of the current venue statutes. Federal actions against the Michigan secretary of state over rules and practices			

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					governing federal elections traditionally were brought in both the Eastern and Western Districts of Michigan. There was no rule that required such actions to be brought only in the district in which the state's seat of government was located, and no inconvenience resulting from litigating in the state's more populous district reasonably could be claimed by a state official who had a			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					mandate to administer elections throughout the state and operated an office in each of its counties. Motion denied.			
Bay County Democratic Party v. Land	United States District Court for the Eastern District of Michigan	347 F. Supp. 2d 404; 2004 U.S. Dist. LEXIS 20872	October 19, 2004	Plaintiffs, voter organizations and political parties, filed actions against defendants, the Michigan Secretary of State and her director of elections, challenging directives issued to local election officials concerning the casting and tabulation of provisional ballots. Plaintiffs sought a	The court concluded that (1) plaintiffs had standing to assert their claims; (2) HAVA created individual rights enforceable through 42 U.S.C.S. § 1983; (3) Congress had provided a scheme under HAVA in which a voter's right to have a	No	N/A	No

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Provisional Ballot Cases - 2

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>preliminary injunction and contended that the directives violated their rights under the Help America Vote Act.</p>	<p>provisional ballot for federal offices tabulated was determined by state law governing eligibility, and defendants' directives for determining eligibility on the basis of precinct--based residency were inconsistent with state and federal election law; (4) Michigan election law defined voter qualifications in terms of the voter's home jurisdiction, and a person who cast a</p>			

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Provisional Ballot Cases - 2

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					provisional ballot within his or her jurisdiction was entitled under federal law to have his or her votes for federal offices counted if eligibility to vote in that election could be verified; and (5) defendants' directives concerning proof of identity of first-time voters who registered by mail were consistent with federal and state law.			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Hileman v. McGinness	Court of Appeals of Illinois, Fifth District	316 Ill. App. 3d 868; 739 N.E.2d 81; 2000 Ill. App. LEXIS 845	October 25, 2000	Appellant challenged the circuit court declaration that that the result of a primary election for county circuit clerk was void.	In a primary election for county circuit clerk, the parties agreed that 681 absentee ballots were presumed invalid. The ballots had been commingled with the valid ballots. There were no markings or indications on the ballots which would have allowed them to be segregated from other ballots cast. Because the ballots could not have been segregated, apportionment was the	No	N/A	No

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>appropriate remedy if no fraud was involved. If fraud was involved, the election would have had to have been voided and a new election held. Because the trial court did not hold an evidentiary hearing on the fraud allegations, and did not determine whether fraud was in issue, the case was remanded for a determination as to whether fraud was evident in</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					the electoral process. The court reversed the declaration of the trial court, holding that a determination as to whether fraud was involved in the election was necessary to a determination of whether or not a new election was required.			
DeFabio v. Gummersheimer	Supreme Court of Illinois	192 Ill. 2d 63; 733 N.E.2d 1241; 2000 Ill. LEXIS 993	July 6, 2000	Appellant challenged the judgment of the appellate court, which affirmed the trial court's decision granting appellee's summary judgment motion in action brought by	Appellee filed a petition for election contest, alleging that the official results of the Monroe County coroners election were invalid because none of the 524 ballots cast in	No	N/A	No

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellee to contest the results of the election for the position of county coroner in Monroe County.</p>	<p>Monroe County's second precinct were initialed by an election judge, in violation of Illinois law. The trial court granted appellee's motion for summary judgment, and the appellate court affirmed the judgment. The Illinois supreme court affirmed, noting that statutes requiring election judges to initial election ballots were mandatory, and uninitialed</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption. Thus, the supreme court held that the trial court properly invalidated all of the ballots cast in Monroe County's second precinct. The court reasoned that none of the ballots contained the requisite initialing, and neither party argued that any</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>of the uninitialed ballots could have been distinguished or identified as absentee ballots. The supreme court affirmed the judgment because the Illinois statute requiring election judges to initial election ballots was mandatory, and uninitialed ballots could not have been counted, even where the parties agreed that there was no knowledge of fraud or corruption.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Additionally, none of the ballots in Monroe County's second precinct contained the requisite initialing.			
Gilmore v. Amityville Union Free Sch. Dist.	United States District Court for the Eastern District of New York	305 F. Supp. 2d 271; 2004 U.S. Dist. LEXIS 3116	March 2, 2004	Plaintiffs, two school board candidates, filed a class action complaint against defendants, a school district, the board president, and other district agents or employees, challenging a school board election. Defendants moved to dismiss.	During the election, a voting machine malfunctioned, resulting in votes being cast on lines that were blank on the ballot. The board president devised a plan for counting the machine votes by moving each tally up one line. The two candidates, who were African	No	N/A	No

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Ballot Counting Violation Cases

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					<p>American, alleged that the president's plan eliminated any possibility that an African American would be elected. The court found that the candidates failed to state a claim under § 1983 because they could not show that defendants' actions were done or approved by a person with final policymaking authority, nor was there a showing of intentional or</p>			

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Ballot Counting Violation Cases

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					<p>purposeful discrimination on defendants' part. The vote-counting method applied equally to all candidates. The candidates' claims under § 2000a and 2000c--8 failed because schools were not places of public accommodation, as required under § 2000a, and § 2000c--8 applied to school segregation. Their claim under § 1971 of deprivation of voting rights failed because §</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					1971 did not provide for a private right of action. The court declined to exercise supplemental jurisdiction over various state law claims. Defendants' motion to dismiss was granted with respect to the candidates' federal claims; the state law claims were dismissed without prejudice.			
State ex rel. Mackey v. Blackwell	Supreme Court of Ohio	106 Ohio St. 3d 261; 2005 Ohio	September 28, 2005	Appellants, a political group and county electors who voted by provisional ballot,	The Secretary of State issued a directive to all Ohio county boards of	No	N/A	No

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		4789; 834 N.E.2d 346; 2005 Ohio LEXIS 2074		sought review of a judgment from the court of appeals, which dismissed appellants' complaint, seeking a writ of mandamus to prevent appellees, the Ohio Secretary of State, a county board of elections, and the board's director, from disenfranchisement of provisional ballot voters.	elections, which specified that a signed affirmation statement was necessary for the counting of a provisional ballot in a presidential election. During the election, over 24,400 provisional ballots were cast in one county. The electors' provisional ballots were not counted. They, together with a political activist group, brought the mandamus action to compel			

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					<p>appellants to prohibit the invalidation of provisional ballots and to notify voters of reasons for ballot rejections. Assorted constitutional and statutory law was relied on in support of the complaint. The court dismissed the complaint, finding that no clear legal right was established under Ohio law and the federal claims could be adequately raised in an action under §</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>1983. On appeal, the Ohio supreme court held that dismissal was proper, as the complaint actually sought declaratory and injunctive relief, rather than mandamus relief. Further, election--contest actions were the exclusive remedy to challenge election results. An adequate remedy existed under § 1983 to raise the federal--law claims. Affirmed.</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Touchston v. McDermott	United States District Court for the Middle District of Florida	120 F. Supp. 2d 1055; 2000 U.S. Dist. LEXIS 20091	November 14, 2000	In action in which plaintiffs, registered voters in Brevard County, Florida, filed suit against defendants, members of several County Canvassing Boards and the Secretary of the Florida Department of State, challenging the constitutionality of Fla. Stat. Ann. § 102.166(4) (2000), before the court was plaintiffs' emergency motion for temporary restraining order and/or preliminary injunction.	In their complaint, plaintiffs challenged the constitutionality of § 102.166(4), asserting that the statute violated their rights under the Equal Protection and Due Process Clauses of U.S. Const. amend. XIV. Based on these claims, plaintiffs sought an order from the court stopping the manual recount of votes. The court found that plaintiffs had failed to set forth a valid	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>basis for intervention by federal courts. They had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote. Moreover, plaintiffs had not established a likelihood of success on the merits of their claims. Plaintiffs' motion for temporary restraining order and/or</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					preliminary injunction denied; plaintiffs had not alleged that the Florida law was discriminatory, that citizens were being deprived of the right to vote, or that there had been fraudulent interference with the vote.			
Siegel v. LePore	United States District Court for the Southern District of Florida	120 F. Supp. 2d 1041; 2000 U.S. Dist. LEXIS 16333	November 13, 2000	Plaintiffs, individual Florida voters and Republican Party presidential and vice-presidential candidates, moved for a temporary restraining order and preliminary injunction to	The court addressed who should consider plaintiffs' serious arguments that manual recounts would diminish the accuracy of vote counts due to ballot	No	N/A	No

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				enjoin defendants, canvassing board members from four Florida counties, from proceeding with manual recounts of election ballots.	degradation and the exercise of discretion in determining voter intent. The court ruled that intervention by a federal district court, particularly on a preliminary basis, was inappropriate. A federal court should not interfere except where there was an immediate need to correct a constitutional violation. Plaintiffs neither demonstrated a clear deprivation of a constitutional			

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					<p>injury or a fundamental unfairness in Florida's manual recount provision. The recount provision was reasonable and non--discriminatory on its face and resided within the state's broad control over presidential election procedures. Plaintiffs failed to show that manual recounts were so unreliable as to constitute a constitutional injury, that plaintiffs'</p>			

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					alleged injuries were irreparable, or that they lacked an adequate state court remedy. Injunctive relief denied because plaintiffs demonstrated neither clear deprivation of constitutional injury or fundamental unfairness in Florida's manual recount provision to justify federal court interference in state election procedures.			
Gore v. Harris	Supreme Court of	773 So. 2d 524;	December 22, 2000	In a contest to results of the 2000	The state supreme court	No	N/A	No

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Florida	2000 Fla. LEXIS 2474		presidential election in Florida, the United States Supreme Court reversed and remanded a Florida Supreme Court decision that had ordered a manual recount of certain ballots.	had ordered the trial court to conduct a manual recount of 9000 contested Miami--Dade County ballots, and also held that uncounted "undervotes" in all Florida counties were to be manually counted. The trial court was ordered to use the standard that a vote was "legal" if there was a clear indication of the intent of the voter. The United States Supreme Court released an			

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					<p>opinion on December 12, 2000, which held that such a standard violated equal protection rights because it lacked specific standards to ensure equal application, and also mandated that any manual recount would have to have been completed by December 12, 2000. On remand, the state supreme court found that it was impossible under that time frame to adopt adequate</p>			

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					standards and make necessary evaluations of vote tabulation equipment. Also, development of a specific, uniform standard for manual recounts was best left to the legislature. Because adequate standards for a manual recount could not be developed by the deadline set by the United States Supreme Court, appellants were afforded no relief.			
Goodwin v. St.	Territorial	43 V.I.	December	Plaintiff political	Plaintiff alleged	No	N/A	No

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Thomas--St. John Bd. of Elections	Court of the Virgin Islands	89; 2000 V.I. LEXIS 15	13, 2000	candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results tabulated without such ballots.	that defendants counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The			

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Ballot Counting Violation Cases

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					<p>court held that plaintiff was not entitled to relief since he failed to establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election</p>			

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					<p>requirements. Further, while defendants improperly counted one ballot where a sealed ballot envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					ballots without notarized signatures were proper. Plaintiff's request for declaratory and injunctive relief was denied. Invalidation of absentee ballots was not required since the irregularities asserted by plaintiff involved ballots which were in fact valid, were not tabulated by defendants, or were insufficient to change the outcome of the election.			
Shannon v.	United	394 F.3d	January 7,	Plaintiffs, voters	Local election	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Jacobowitz	States Court of Appeals for the Second Circuit	90; 2005 U.S. App. LEXIS 259	2005	and an incumbent candidate, sued defendants, a challenger candidate, a county board of election, and commissioners, pursuant to § 1983 alleging violation of the Due Process Clause of the Fourteenth Amendment. The United States District Court for the Northern District of New York granted summary judgment in favor of plaintiffs. Defendants appealed.	inspectors noticed a problem with a voting machine. Plaintiffs asserted that their votes were not counted due to the machine malfunction. Rather than pursue the state remedy of quo warranto, by requesting that New York's Attorney General investigate the machine malfunction and challenge the election results in state court, plaintiffs filed their complaint in federal court.			

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Ballot Counting Violation Cases

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					<p>The court of appeals found that United States Supreme Court jurisprudence required intentional conduct by state actors as a prerequisite for a due process violation. Neither side alleged that local officials acted intentionally or in a discriminatory manner with regard to the vote miscount. Both sides conceded that the recorded results were</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

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					<p>likely due to an unforeseen malfunction with the voting machine. Because no conduct was alleged that would indicate an intentional deprivation of the right to vote, there was no cognizable federal due process claim. The proper remedy was to assert a quo warranto action to challenge the outcome of a general election based on an alleged voting machine malfunction.</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					The district court's grant of summary judgment was reversed and its injunctions were vacated. The case was remanded for further proceedings consistent with this opinion.			
GEORGE W. BUSH v. PALM BEACH COUNTY CANVASSING BOARD, ET AL.	United States Supreme Court	531 U.S. 70; 121 S. Ct. 471; 148 L. Ed. 2d 366; 2000 U.S. LEXIS 8087	December 4, 2000	Appellant Republican presidential candidate's petition for writ of certiorari to the Florida supreme court was granted in a case involving interpretations of Fla. Stat. Ann. §§ 102.111, 102.112, in proceedings brought by	The Supreme Court vacated the state court's judgment, finding that the state court opinion could be read to indicate that it construed the Florida Election Code without regard to the extent to which	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>appellees Democratic presidential candidate, county canvassing boards, and Florida Democratic Party regarding authority of the boards and respondent Florida Secretary of State as to manual recounts of ballots and deadlines.</p>	<p>the Florida Constitution could, consistent with U.S. Const. art. II, § 1, cl. 2, circumscribe the legislative power. The judgment of the Florida Supreme Court was vacated and remanded for further proceedings. The court stated the judgment was unclear as to the extent to which the state court saw the Florida constitution as circumscribing the legislature's authority under</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Article II of the United States Constitution, and as to the consideration given the federal statute regarding state electors.			
Touchston v. McDermott	United States Court of Appeals for the Eleventh Circuit	234 F.3d 1130; 2000 U.S. App. LEXIS 29366	November 17, 2000	Plaintiff voters appealed from judgment of the United States District Court for the Middle District of Florida, which denied their emergency motion for an injunction pending appeal against defendant county election officials. Plaintiffs sought to enjoin defendants from conducting manual ballot recounts or	Plaintiff voters sought an emergency injunction pending appeal to enjoin defendant county election officials from conducting manual ballot recounts or to enjoin defendants from certifying the results of the Presidential election which	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				to enjoin defendants from certifying results of the presidential election that contained any manual recounts.	contained any manual recounts. The district court denied the emergency injunction and plaintiffs appealed. Upon review, the emergency motion for injunction pending appeal was denied without prejudice. Florida had adequate election dispute procedures, which had been invoked and were being implemented in the forms of administrative			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>actions by state officials and actions in state court. Therefore, the state procedures were adequate to preserve for ultimate review in the United States Supreme Court any federal questions arising out of the state procedures. Moreover, plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would warrant granting the extraordinary</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					remedy of an injunction pending appeal. Denial of plaintiff's petition for emergency injunction pending appeal was affirmed. The state procedures were adequate to preserve any federal issue for review, and plaintiffs failed to demonstrate a substantial threat of an irreparable injury that would have warranted granting the extraordinary remedy of the			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					injunction.			
Gore v. Harris	Supreme Court of Florida	772 So. 2d 1243; 2000 Fla. LEXIS 2373	December 8, 2000	The court of appeal certified as being of great public importance a trial court judgment that denied all relief requested by appellants, candidates for President and Vice President of the United States, in appellants' contest to certified election results.	Appellants contested the certification of their opponents as the winners of Florida's electoral votes. The Florida supreme court found no error in the trial court's holding that it was proper to certify election night returns from Nassau County rather than results of a machine recount. Nor did the trial court err in refusing to include votes that the Palm Beach County	No	N/A	No

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>Canvassing Board found not to be legal votes during a manual recount. However, the trial court erred in excluding votes that were identified during the Palm Beach County manual recount and during a partial manual recount in Miami--Dade County. It was also error to refuse to examine Miami--Dade County ballots that registered as non--votes during the machine count.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>The trial court applied an improper standard to determine whether appellants had established that the result of the election was in doubt, and improperly concluded that there was no probability of a different result without examining the ballots that appellants claimed contained rejected legal votes. The judgment was reversed and remanded; the</p>			

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Ballot Counting Violation Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					trial court was ordered to tabulate by hand Miami-Dade County ballots that the counting machine registered as non--votes, and was directed to order inclusion of votes that had already been identified during manual recounts. The trial court also was ordered to consider whether manual recounts in other counties were necessary.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Reitz v. Rendell	United States District Court for the Middle District of Pennsylvania	2004 U.S. Dist. LEXIS 21813	October 29, 2004	Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a voluntary agreement and submitted it to the court for approval.	The court issued an order to assure that the service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee ballots cast by service members and other	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against the Governor or the Secretary.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.			
United States v. Pennsylvania	United States District Court for the Middle district of Pennsylvania	2004 U.S. Dist. LEXIS 21167	October 20, 2004	Plaintiff United States sued defendant Commonwealth of Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who	The testimony of the two witnesses offered by the United States did not support its contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified	No	N/A	No

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UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so late in the election year.</p>	<p>that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by</p>			

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UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. must consider the following four factors: (1) the likelihood that the applicant will prevail on the merits of the substantive claim; (2) the extent to which the moving party will be irreparably harmed in the absence of injunctive relief; (3) the extent to which the nonmoving party</p>			

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UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					will suffer irreparable harm if the court grants the requested injunctive relief; and (4) the public interest. District courts should only grant injunctive relief after consideration of each of these factors. Motion for injunctive relief denied.			
Bush v. Hillsborough County Canvassing Bd.	United States District Court for the Northern District of Florida	123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265		The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee	Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>state ballots and federal write--in ballots based on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p>	<p>state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write--in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>voter to sign an oath that the ballot was mailed from outside the United States and requiring the state election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and relief GRANTED in part and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					postmark, or solely because there was no record of an application for a state absentee ballot.			
Harris v. Florida Elections Canvassing Comm'n	United States District Court for the Northern District of Florida	122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875	December 9, 2000	Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the ballots violated Florida election law.	In two separate cases, plaintiff electors originally sued defendant state elections canvassing commission and state officials in Florida state circuit court, challenging the counting of overseas absentee ballots received after 7 p.m. on election day. Defendant governor removed one case	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>to federal court. The second case was also removed. The court in the second case denied plaintiff's motion for remand and granted a motion to transfer the case to the first federal court under the related case doctrine. Plaintiffs claimed that the overseas ballots violated Florida election law. Defendants argued the deadline was not absolute. The court found Congress did not intend 3 U.S.C.S. § 1 to impose</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					irrational scheduling rules on state and local canvassing officials, and did not intend to disenfranchise overseas voters. The court held the state statute was required to yield to Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. Judgment entered for defendants			

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UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					because a Florida administrative rule requiring a 10--day extension in the receipt of overseas absentee ballots in federal elections was enacted to bring the state into compliance with a federally ordered mandate; plaintiffs were not entitled to relief under any provision of state or federal law.			
Romeu v. Cohen	United States District Court for the Southern District of New York	121 F. Supp. 2d 264; 2000 U.S. Dist. LEXIS 12842	September 7, 2000	Plaintiff territorial resident and plaintiff-intervenor territorial governor moved for summary judgment and defendant federal,	Plaintiff argued that the laws denied him the right to receive a state absentee ballot in violation of the right to vote, the right to travel, the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>state, and local officials moved to dismiss the complaint that alleged that the Voting Rights Amendments of 1970, the Uniform Overseas Citizens Absentee Voting Act, and New York election law were unconstitutional since they denied plaintiff's right to receive an absentee ballot for the upcoming presidential election.</p>	<p>Privileges and Immunities Clause, and the Equal Protection Clause. Plaintiff-intervenor territorial governor intervened on behalf of similarly situated Puerto Rican residents. Defendants' argued that: 1) plaintiff lacked standing; 2) a non-justiciable political question was raised; and 3) the laws were constitutional. The court held that: 1) plaintiff had standing because he made a substantial</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>showing that application for the benefit was futile; 2) whether or not the statutes violated plaintiff's rights presented a legal, not political, question, and there was no lack of judicially discoverable and manageable standards for resolving the matter; and 3) the laws were constitutional and only a constitutional amendment or grant of statehood would enable plaintiff to vote in a presidential election. The</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					court granted defendants' motion to dismiss because the laws that prohibited territorial residents from voting by state absentee ballot in presidential elections were constitutional.			
Romeu v. Cohen	United States Court of Appeals for the Second Circuit	265 F.3d 118; 2001 U.S. App. LEXIS 19876	September 6, 2001	Plaintiff territorial resident sued defendants, state and federal officials, alleging that the Uniformed and Overseas Citizens Absentee Voting Act unconstitutionally prevented the territorial resident from voting in his former state of	The territorial resident contended that the UOCAVA unconstitutionally distinguished between former state residents residing outside the United States, who were permitted to vote in their former states, and former state residents	No	N/A	No

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EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>residence. The resident appealed the judgment of the United States District Court for the Southern District of New York, which dismissed the complaint.</p>	<p>residing in a territory, who were not permitted to vote in their former states. The court of appeals first held that the UOCAVA did not violate the territorial resident's right to equal protection in view of the valid and not insubstantial considerations for the distinction. The territorial resident chose to reside in the territory and had the same voting rights as other territorial residents, even though such</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					residency precluded voting for federal offices. Further, the resident had no constitutional right to vote in his former state after he terminated his residency in such state, and the consequences of the choice of residency did not constitute an unconstitutional interference with the right to travel. Finally, there was no denial of the privileges and immunities of state citizenship, since the territorial resident was treated			

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UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					identically to other territorial residents. The judgment dismissing the territorial resident's complaint was affirmed.			
Igartua de la Rosa v. United States	United States District Court for the District of Puerto Rico	107 F. Supp. 2d 140; 2000 U.S. Dist. LEXIS 11146	July 19, 2000	Defendant United States moved to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote, as U.S. citizens residing in Puerto Rico, in the upcoming and all subsequent Presidential elections. Plaintiffs urged, among other claims, that their right to vote in	The court denied the motion of defendant United States to dismiss the action of plaintiffs, two groups of Puerto Ricans, seeking a declaratory judgment allowing them to vote in Presidential elections. One group always resided in Puerto Rico and the other became	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Presidential elections was guaranteed by the Constitution and the International Covenant on Civil and Political Rights.</p>	<p>ineligible to vote in Presidential elections upon taking up residence in Puerto Rico. Plaintiffs contended that the Constitution and the International Covenant on Civil and Political Rights, guaranteed their right to vote in Presidential elections and that the Uniformed and Overseas Citizens Absentee Voting Act, was unconstitutional in disallowing Puerto Rican citizens to vote</p>			

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UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>by considering them to be within the United States. The court concluded that UOCAVA was constitutional under the rational basis test, and violation of the treaty did not give rise to privately enforceable rights. Nevertheless, the Constitution provided U.S. citizens residing in Puerto Rico the right to participate in Presidential elections. No constitutional amendment was needed. The</p>			

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UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>present political status of Puerto Rico was abhorrent to the Bill of Rights. The court denied defendant United States' motion to dismiss plaintiffs' action seeking a declaratory judgment allowing them to vote in Presidential elections as citizens of the United States and of Puerto Rico. The court held that the United States Constitution itself provided plaintiffs with the right to participate in</p>			

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UOCAVA Ballot Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Presidential elections.			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Spencer v. Blackwell	United States District Court for the Southern District of Ohio	347 F. Supp. 2d 528; 2004 U.S. Dist. LEXIS 22062	November 1, 2004	Plaintiff voters filed a motion for temporary restraining order and preliminary injunction seeking to restrain defendant election officials and intervenor State of Ohio from discriminating against black voters in Hamilton County on the basis of race. If necessary, they sought to restrain challengers from being allowed at the	The voters alleged that defendants had combined to implement a voter challenge system at the polls that discriminated against African--American voters. Each precinct was run by its election judges but Ohio law also allowed challengers to be physically present in the polling places in order to challenge voters' eligibility to vote. The court held that the injury asserted, that allowing	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				polls.	challengers to challenge voters' eligibility would place an undue burden on voters and impede their right to vote, was not speculative and could be redressed by removing the challengers. The court held that in the absence of any statutory guidance whatsoever governing the procedures and limitations for challenging voters by challengers, and the questionable enforceability of the State's and			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>County's policies regarding good faith challenges and ejection of disruptive challengers from the polls, there existed an enormous risk of chaos, delay, intimidation, and pandemonium inside the polls and in the lines out the door. Furthermore, the law allowing private challengers was not narrowly tailored to serve Ohio's compelling interest in preventing voter fraud. The court enjoined all</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					defendants from allowing any challengers other than election judges and other electors into the polling places throughout the state on Election Day.			
MARIAN SPENCER, et al., Petitioners v. CLARA PUGH, et al. (No. 04A360) SUMMIT COUNTY DEMOCRATIC CENTRAL and EXECUTIVE COMMITTEE, et al., Petitioners v. MATTHEW HEIDER, et al. (No. 04A364)	United States Supreme Court	125 S. Ct. 305; 160 L. Ed. 2d 213; 2004 U.S. LEXIS 7400	November 2, 2004	In two separate actions, plaintiffs sued defendant members of a political party, alleging that the members planned to mount indiscriminate challenges in polling places which would disrupt voting. Plaintiffs applied to	Plaintiffs contended that the members planned to send numerous challengers to polling places in predominantly African--American neighborhoods to challenge votes in an imminent national election, which would allegedly cause	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>vacate orders entered by the United States Court of Appeals for the Sixth Circuit which entered emergency stays of injunctions restricting the members' activities.</p>	<p>voter intimidation and inordinate delays in voting. A district court ordered challengers to stay out of polling places, and another district court ordered challengers to remain in the polling places only as witnesses, but the appellate court stayed the orders. The United States Supreme Court, acting through a single Circuit Justice, declined to reinstate the injunctions for</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prudential reasons, despite the few hours left until the upcoming election. While the allegations of abuse were serious, it was not possible to determine with any certainty the ultimate validity of the plaintiffs' claims or for the full Supreme Court to review the relevant submissions, and voting officials would be available to enable proper voting by qualified voters.			
Charles H. Wesley Educ.	United States	324 F. Supp. 2d	July 1, 2004	Plaintiffs, a voter, fraternity	The organization participated in	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Found., Inc. v. Cox	District Court for the Northern District of Georgia	1358; 2004 U.S. Dist. LEXIS 12120		members, and an organization, sought an injunction ordering defendant, the Georgia Secretary of State, to process the voter registration application forms that they mailed in following a voter registration drive. They contended that by refusing to process the forms defendants violated the National Voter	numerous non-partisan voter registration drives primarily designed to increase the voting strength of African-Americans. Following one such drive, the fraternity members mailed in over 60 registration forms, including one for the voter who had moved within state since the last election. The Georgia Secretary of State's office refused to process them because they			

EAC Voting Fraud-Voter Intimidation Preliminary Research
Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Registration Act and U.S. Const. amends. I, XIV, and XV.</p>	<p>were not mailed individually and neither a registrar, deputy registrar, or an otherwise authorized person had collected the applications as required under state law. The court held that plaintiffs had standing to bring the action. The court held that because the applications were received in accordance with the mandates of the NVRA, the State of Georgia was not free to reject them. The court found that:</p>			

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Racial Discrimination Challenge Cases

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					<p>plaintiffs had a substantial likelihood of prevailing on the merits of their claim that the applications were improperly rejected; plaintiffs would be irreparably injured absent an injunction; the potential harm to defendants was outweighed by plaintiffs' injuries; and an injunction was in the public interest. Injunction granted.</p>			
Jacksonville Coalition for Voter Prot. v. Hood	United States District Court for	351 F. Supp. 2d 1326; 2004 U.S.	October 25, 2004	Plaintiffs, voter protection coalition, union, and	The coalition, the union, and the voters based their claim on	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	the Middle District of Florida	Dist. LEXIS 26522		voters, filed an emergency motion for a preliminary injunction and argued that African Americans in the county had less opportunity than other members of the state's electorate to vote in the upcoming election, and that defendants, elections officials', implementation of early voting procedures violated the Voting Rights	the fact that the county had the largest percentage of African-- American registered voters of any major county in the state, and, yet, other similarly-sized counties with smaller African-- American registered voter percentages had more early voting sites. Based on that, they argued that African-- American voters in the county were disproportionately affected. The			

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				Act and their constitutional rights.	court found that while it may have been true that having to drive to an early voting site and having to wait in line may cause people to be inconvenienced, inconvenience did not result in a denial of meaningful access to the political process. Thus, the coalition, the union, and the voters had not established a likelihood of success on the merits of their claim that the county's implementation			

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					of early voting procedures violated § 2 of the Voting Rights Act. Moreover, the coalition, the union, and the voters failed to establish a likelihood of success on the merits of their § 1983 Fourteenth and Fifteenth Amendment claims, which required a higher proof of discriminatory purpose and effect. Injunction denied.			
Taylor v. Howe	United States Court of Appeals	225 F.3d 993; 2000 U.S. App. LEXIS	August 31, 2000	Plaintiffs, African American voters, poll	The court of appeals affirmed--in--part, reversed--	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	for the Eighth Circuit	22241		watchers, and candidates appealed from a judgment of the United States District Court for the Eastern District of Arkansas in favor of defendants, elections commissioners and related individuals, on their § 1983 voting rights claims and contended the district court made erroneous findings of fact and law and failed to appreciate evidence of	in--part, and remanded the district court's judgment. The court found that the district court's finding of a lack of intentional discrimination was appropriate as to many defendants. However, as to some of the individual voters' claims for damages, the court held "a definite and firm conviction" that the district court's findings were mistaken. The court noted that the argument that a			

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				discriminatory intent.	voter's name was misspelled in the voter register, with a single incorrect letter, was a flimsy pretext and, accordingly, held that the district court's finding that defendant poll workers did not racially discriminate in denying the vote to this plaintiff was clearly erroneous. Affirmed in part and reversed in part.			
Stewart v. Blackwell	United States District Court for the	356 F. Supp. 2d 791; 2004 U.S. Dist. LEXIS	December 14, 2004	Plaintiffs, including African--American voters, alleged	The primary thrust of the litigation was an attempt to federalize	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Northern District of Ohio	26897		that use of punch card voting and "central--count" optical scanning devices by defendants, the Ohio Secretary of State et al., violated their rights under the Due Process Clause, the Equal Protection Clause, and (African--American plaintiffs) their rights under § 2 of the Voting Rights Act.	elections by judicial rule or fiat via the invitation to the court to declare a certain voting technology unconstitutional and then fashion a remedy. The court declined the invitation. The determination of the applicable voting process had always been focused in the legislative branch of the government. While it was true that the percentage of residual or non-voted ballots in the 2000			

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					<p>presidential election ran slightly higher in counties using punch card technology, that fact standing alone was insufficient to declare the use of the system unconstitutional. Moreover, the highest frequency in Ohio of residual voting bore a direct relationship to economic and educational factors, negating the Voting Rights Act claim. The court further stated that local variety</p>			

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					in voting technology did not violate the Equal Protection Clause, even if the different technologies had different levels of effectiveness in recording voters' intentions, so long as there was some rational basis for the technology choice. It concluded that defendants' cost and security reasons for the use of punch card ballots were plausible.			
Taylor v. Currie	United States District	386 F. Supp. 2d 929; 2005	September 14, 2005	Plaintiff brought an action against	This action involved issues pertaining to	No	N/A	No

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Racial Discrimination Challenge Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
	Court for the Eastern District of Michigan	U.S. Dist. LEXIS 20257		defendants, including a city elections commission, alleging defects in a city council primary election pertaining to absentee balloting. The case was removed to federal court by defendants. Pending before the court was a motion to remand, filed by plaintiff.	absentee ballots. Plaintiff alleged that defendants were not complying with state laws requiring certain eligibility checks before issuing absentee ballots. The state court issued an injunction preventing defendants from mailing absentee ballots. Defendants removed the action to federal court and plaintiff sought a remand. Defendants argued that not mailing the absentee ballots			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>would violate the Voting Rights Act, because it would place a restriction only on the City of Detroit, which was predominately African--American. The court ordered the case remanded because it found no basis under 28 U.S.C.S. §§ 1441 or 1443 for federal jurisdiction. Defendants' mere reference to a federal law or federal right was not enough to confer subject matter</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>jurisdiction where the complaint sought to assert only rights arising under state statutes against state officials in relation to a state election. The court stated that it would not allow defendants to take haven in federal court under the guise of providing equal protection for the citizens of Detroit but with a goal of perpetuating their violation of a non-discriminatory state law.</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Motion to remand granted.			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Weber v. Shelley	United States Court of Appeals for the Ninth Circuit	347 F.3d 1101; 2003 U.S. App. LEXIS 21979	October 28, 2003	Plaintiff voter brought an suit against defendants, the secretary of state and the county registrar of voters, claiming that the lack of a voter--verified paper trail in the county's newly installed touchscreen voting system violated her rights to equal protection and due process. The United States District Court for the Central District of California granted the	On review, the voter contended that use of paperless touch--screen voting systems was unconstitutional and that the trial court erred by ruling her expert testimony inadmissible. The trial court focused on whether the experts' declarations raised genuine issues of material fact about the relative accuracy of the voting systemat issue and	No	N/A	No

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				secretary and the registrar summary judgment. The voter appealed.	excluded references to news--paper articles and unidentified studies absent any indication that experts normally relied upon them. The appellate court found that the trial court's exclusions were not an abuse of discretion and agreed that the admissible opinions which were left did not tend to show that voters had a lesser chance of having their votes counted. It further found			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>that the use of touchscreen voting systems was not subject to strict scrutiny simply because this particular balloting system might make the possibility of some kinds of fraud more difficult to detect. California made a reasonable, politically neutral and non--discriminatory choice to certify touchscreen systems as an</p>			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					alternative to paper ballots, as did the county in deciding to use such a system. Nothing in the Constitution forbid this choice. The judgment was affirmed.			
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was	No	N/A	No

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>approval of the use of certain direct recording electronic (DRE) voting systems. One voter applied for a temporary restraining order, or, in the alternative, a preliminary injunction. of a preliminary injunction in a number of ways, including a four--part test that considers (1) likelihood of success on the merits; (2) the possibility of irreparable injury in the</p>	<p>not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be deprived of their fundamental right to vote. The Americans with Disabilities Act, did not require accommodation that would enable disabled persons to vote in a manner that was</p>			

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Touch Screen Voting Cases

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				<p>absence of an injunction; (3) a balancing of the harms; and (4) the public interest.</p>	<p>comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's</p>			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. Ninth Circuit's tests</p>			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					for a preliminary injunction, although phrased differently, require a court to inquire into whether there exists a likelihood of success on the merits, and the possibility of irreparable injury; a court is also required to balance the hardships.			
Fla. Democratic Party v. Hood	Court of Appeal of Florida, First District	884 So. 2d 1148; 2004 Fla. App. LEXIS 16077	October 28, 2004	Petitioner, the Florida Democratic Party, sought review of an emergency rule adopted by the Florida	The Party argued that: (1) the Florida Administrative Code, recast language from the earlier invalidated rule	No	N/A	No

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				<p>Department of State, contending that the findings of immediate danger, necessity, and procedural fairness on which the rule was based were insufficient under Florida law, which required a showing of such circumstances, and Florida case law. This matter followed.</p>	<p>prohibiting a manual recount of overvotes and undervotes cast on a touchscreen machine; (2) the rule did not call for the manual recount of votes to determine voter intent; and (3) the rule created voters who were entitled to manual recounts in close elections and those who were not. The appeals court disagreed. The Department was clearly concerned with the fact that if</p>			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>no rule were in place, the same confusion and inconsistency in divining a voter's intent that attended the 2000 presidential election in Florida, and the same constitutional problems the United States Supreme Court addressed then, might recur in 2004. It was not the court's responsibility to decide the validity of the rule or whether other means were more appropriate.</p>			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>But, the following question was certified to the Supreme Court: Whether under Fla. Stat. ch. 120.54(4), the Department of State set forth sufficient justification for an emergency rule establishing standards for conducting manual recounts of overvotes and undervotes as applied to touchscreen voting systems? The petition was denied, but a question was</p>			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					certified to the supreme court as a matter of great public importance.			
Wexler v. Lepore	United States District Court for the Southern District of Florida	342 F. Supp. 2d 1097; 2004 U.S. Dist. LEXIS 21344	October 25, 2004	Plaintiffs, a congressman, state commissioners, and a registered voter, brought a § 1983 action against defendants, state officials, alleging that the manual recount procedures for the state's touchscreen paperless voting systems violated their rights under U.S. Const.	The officials claimed that the state had established an updated standard for manual recounts in counties using optical scan systems and touchscreen voting systems, therefore, alleviating equal protection concerns. The court held that the rules prescribing what	No	N/A	No

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				amends. V and XIV. A bench trial ensued.	constituted a clear indication on the ballot that the voter had made a definite choice, as well the rules prescribing additional recount procedures for each certified voting system promulgated pursuant to Florida law complied with equal protection requirements under U.S. Const. amends. V and XIV because the rules prescribed uniform,			

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Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>nondifferential standards for what constituted a legal vote under each certified voting system, as well as procedures for conducting a manual recount of overvotes and undervotes in the entire geographic jurisdiction. The court further held that the ballot images printed during a manual recount pursuant to Florida Administrative Code did not violate Florida</p>			

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Touch Screen Voting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>law because the manual recount scheme properly reflected a voter's choice. Judgment was entered for the officials. The claims of the congressman, commissioners, and voter were denied.</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - 'Dead' Voters and Multiple Voting

City/County	State	Date	Type of Election	Alleged Instance of Fraud	Original Source	Source 1	Source 2	Source 3
Apache	Arizona	31-Aug-04	2002 general	County Attorney alleges some Navajo Nation voters cast multiple ballots. The Election Director dismisses many of the allegations and questioned why the county attorney had waited more than a year and a half to make them.	Arizona Republic			
Eureka Springs	Arkansas	29-Jun-01	county judge	A special judge rules prosecutors must show the mayor intended to vote twice -- he says he got confused when he voted early for a city bond election and the voting clerk offered him a primary ballot at the same time. He then voted in the primary at his precinct on election day.	AP			
La Puente	California	3-Aug-02	municipal	Four family members of a councilman were charged with voting twice because they voted absentee and on election day.	Los Angeles Times			
San Francisco	California	1-Mar-04	mayoral runoff	One of the candidates alleged that 400 people who are dead cast votes. The allegation was based on a computer program that cross-referenced voters and the social security death index using first and last names and date of birth. When the Chronicle also used middle initials and other identifying indicators, the list was whittled to five cases. Some were by absentee but a couple were in person.	San Francisco Chronicle			
	Colorado	25-Mar-05		58 of 64 counties responded to a request by the Secretary of State to report on fraud investigations. Only 13 counties have referred cases to prosecutors. Those cases included 41 instances of citizens voting twice. Denver County officials said they had 81 instances of double voting.	Denver Post			
	Connecticut	22-Oct-02	all	Secretary of State says that RNC allegations that 54 Connecticut voters cast ballots in 2 different states have been investigated and found to be false. 15 voted only in CT, 29 voted only in another state, four names were wrong because they had different birth dates, and three were referred to the FBI and US Attorney because information from the other state could not be obtained.	New Haven Register			
Bridgeport	Connecticut	23-Sep-03	mayoral primary	Losing candidate alleges some voters were able to vote twice.	News 12			
	DC and Maryland	31-Oct-02	state primary and presidential election	Records indicate that 24 voters cast ballots in both DC and Maryland in the September 2002 primary and 90 voters did so in the 2000 election. Voters denied they had done so and election officials said it was possible for precinct workers to make mistakes when recording who voted.	Washington Post			
Palm Beach	Florida	5-Dec-02	2002 general	The County State Attorney will be investigating about a dozen people accused of voting twice. Each cast an absentee ballot and voted on Election Day. The Secretary of State says they may have forgotten they voted absentee. They all had to vote by provisional ballots so none of the second votes were counted. This is the first time the Secretary's office has found people who voted twice.	Sun-Sentinel			
Indian River	Florida	2-Nov-04	presidential	One voter returned two absentee ballots -- the first one was counted and the second discarded. A woman voted by absentee and then during early voting. Her absentee ballot will be thrown out.	Press Journal (Vero Beach)			

**EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting**

Palm Beach	Florida	6-Nov-04	presidential	The Palm Beach Post reports that three voters cast absentee ballots and then filled out provisional ballots on Election Day. Local officials have asked the Attorney General to Investigate. The Post reached two of the voters and they said they cast provisional ballots because when they tried to check on their absentee ballots they were unable to confirm they had been received.	Florida Times Union				
Volusia	Florida	6-Nov-04	presidential	Volusia officials said Friday they have identified 12 cases of suspected election fraud stemming from Tuesday's presidential election. All involved people trying to vote twice, said County Judge Steven deLarocche, a member of the county canvassing board. In one case, which occurred during early voting, a person was caught trying to feed an absentee ballot into a tabulating machine after casting a traditional ballot, deLarocche said. That person was stopped by a poll worker. In the other 11 cases, people who had voted by absentee ballot or at an early-voting site tried to vote a second time on Election Day, he said. In those cases, election workers discovered the attempts when computers showed those voters had already cast ballots. All the cases will be forwarded to the State Attorney's Office for prosecution.	Orlando Sentinel				
Duval	Florida	31-Jul-05	presidential	Officials said in January that a review of records found more than 50 cases in which the same person had cast an absentee and in person ballot. An FBI investigation found that every one of those instances was due to a clerical error, such as someone signing the voter rolls before they were told they had to vote elsewhere.	AP				
Fulton	Georgia	30-Sep-04	primary	A man who may be facing felony charges for voting twice says he voted during the early period and that when he went to his precinct on election day to make sure that vote had been recorded, he was told it was not. The poll worker told him he should vote again. Fulton County investigated and found no other advance voters had voted again on the day of the election. The registration chief acknowledged the county was late getting names of advance voters to the polls. The advance vote was tossed out after it was discovered.	Atlanta Journal Constitution				
Marshall	Illinois	13-Nov-04	2002 and 2004	A man has been charged for voting twice, in both Kane County and Marshall County	South Bend Tribune				
Lake County	Indiana	16-May-04	county primary	A newspaper analysis shows that five votes cast were attributed to people who were dead well before the election.	AP				
Prairie Village	Kansas	8-Jan-05	2002 general	A woman who voted twice pled guilty -- she had voted from her business address and cast an absentee ballot from a different location in the same election.	Kansas City Star				

EAC Voting Fraud-Voter Intimidation Preliminary Research

Nexis Articles - 'Dead' Voters and Multiple Voting

Hancock	Louisiana	3-Nov-04	presidential	A woman called a radio talk show Tuesday and admitted casting fraudulent votes in Hancock County. The woman said she voted once using her own name, but after realizing she was not required to show identification, she waited several hours and returned to the polls and used a friend's name. The county clerks said the incident seems to be isolated and her office has not received evidence of other fraudulent votes elsewhere in the county.	The Sun Herald			
Duluth	Minnesota	3-Nov-04	presidential	A voter claims someone forged his signature to vote under his name. He reported the incident to City Hall	Duluth News-Tribune			
Minneapolis	Minnesota	23-Feb-05	presidential	A felony charge filed Tuesday in Hennepin County District Court accuses Darin Randall Johnson, 34, of registering to vote and casting ballots in three different places in the November election. The criminal complaint alleges he filled out same-day registration forms and voted once in Brooklyn Park and twice in Minneapolis.	Saint Paul Pioneer Press			
Kansas City	Missouri	28-Mar-05	various	Man pleads guilty to casting double votes in four elections by voting in both Kansas and Missouri	Kansas City Star			
Kansas City	Missouri	September 6, 2004	all	Kansas City Star reports that their investigation shows there may be more than 300 voters voting twice in different counties. The exact number is impossible to determine because many counties have shredded their poll books and state computer files are rife with data errors. In fact, the number may be lower because the state computer files contain many errors that show people voting who did not actually vote. The study only flagged people registered in two places under exactly the same name and date of birth.	Kansas City Star, Belleville News-Democrat			
	New Jersey	16-Sep-05	presidential	Republican Party claims 4,755 people who have died voted in the election and 4,397 people registered to vote in more than one county voted twice	New York Times			
Sandoval	New Mexico	9-Nov-02	state house	A comparison of names on absentee-ballot-request rosters and affidavits for the absentee-in-lieu-of-ballots made it appear that 5 people had voted twice absentee by mail and absentee-in-lieu-of at the polls.	Albuquerque Journal			
Sandoval	New Mexico	24-Nov-04	presidential	Bureau of Elections employees found a woman who voted on a provisional ballot at one precinct also had voted at the regular precinct where she is registered. The signatures at both precincts appeared to be the same, so elections officials sent the case to the district attorney.	AP			
New York	New York	23-Oct-02	2000 and 2001	Former conservative party candidate for lieutenant governor is arraigned on an indictment for voting twice, from two different Manhattan addresses. He denies the charge	Newsday			

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - 'Dead' Voters and Multiple Voting

	North Carolina	24-Oct-04	2000 and 2002	The Observer found up to 180 people who were listed as having voted in both Carolinas in either the 2000 or 2002 elections. Reporters found no one who admitted to double voting and discovered plausible explanations for many of the duplications. In one case, an Army captain in North Carolina shared the same name as his father in South Carolina. The father was likely mistakenly recorded under his son's name when he cast his ballot.	AP			
Jones	North Carolina	30-Oct-04	primary	Four men were charged with voting by absentee and on election day. Three denied the allegations or said they misunderstood the process.	AP			
Gaston	North Carolina	16-Dec-04	presidential	There are differences in most precincts between the number of ballots cast and the number of people recorded as voting. State investigators have concluded there is no way to rule out double-voting or missing votes because poll workers cannot explain the discrepancies.	Charlotte Observer			
	Ohio	2-Nov-04	presidential	Republican attorney cites a Plain Dealer report saying more than 27,000 people are registered to vote in both Ohio and Florida and that 100 people cast votes in both places four years ago. A Dispatch investigation of the allegations found little proof of duplicate voting after comparing the Ohio and Florida state databases and conducting further research. After culling the list through those methods, the Dispatch interviewed the people left in question. This failed to turn up anyone who had ever voted twice. Many had never been to Florida; some had never lived in Ohio.	Columbus Dispatch			
Summit	Ohio	8-Dec-04	local	The Director of the Board of Elections says the number of people under investigation for voting twice has decreased from 19 to 10. The board already determined that there were legitimate explanations for about half of the votes. In one case it appeared a man voted absentee and at the polling place but it turned out the absentee ballot had been cast by his son who has the same name.	Akron Beacon Journal			
London	Ohio	9-Dec-04	presidential	A couple who admitted voting twice were not indicted -- they voted by absentee ballot and then voted in person because they thought their absentee ballots had been lost	AP			
Logan	Oklahoma	24-Feb-01	primary	A man is charged with voting twice, once by absentee and once on election day. Although election board officials said they haven't seen a case like this in twenty years, they won't dismiss the charge.	Daily Oklahoman			
	Oregon	11-Apr-02	2000 general	The Secretary of State has referred five cases of possible double voting to the Attorney General (Oregon votes entirely by mail)	AP			
	Oregon	16-May-04	2000	Republicans claimed 1,200 Oregonians had registered in two counties and voted twice. But a state Elections Division investigation found that just a handful of voters were registered to vote in two counties and one had cast more than one ballot	AP			

**EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting**

	Oregon	1-Nov-04	presidential	The state Republican Chair claims in a news conference that he has uncovered six cases of people voting twice. The elections division immediately showed that five of the voters had only voted once, and the sixth case had immediately been caught by election workers.	The Oregonian			
Pawtucket	Rhode Island	14-Jan-03	General Assembly	The Pawtucket Board of Canvassers determined there was no truth to the allegation that Louis C. Yip, owner of the China Inn restaurant and a well-known developer, had shepherded the same couple to two different polling places, getting them to vote twice. City Registrar of Voters Dawn M. McCormick said that when voting records were checked, it turned out that the couple that Yip was accused of getting to vote at Towers East and Kennedy Housing was actually two different couples, both elderly and Chinese.	Providence Journal Bulletin			
Hamilton County	Tennessee	19-Dec-02	county commission	The county election commissioner said she believed people were using other names to vote and that addresses were changed fraudulently. Voters sign fail-safe affidavits when they change their addresses and their voting records have not yet been updated. Oaths of identity are signed when voters have no other form of identification. The commissioner said she questioned the validity of 11 oaths of identity and 68 fail-safe affidavits in the District 4 election.	Chattanooga Times Free Press			
	Tennessee	14-Dec-05	state senate	A second dead voter cast a ballot in the September special election held to fill the seat vacated by former state senator John Ford. Like a similar case documented earlier this week, this one involves an elderly voter who died weeks before the Sept. 15 election, an investigation by The Commercial Appeal found. Both of the suspect votes occurred in Precinct 27-1, in the heart of heavily Democratic North Memphis. By law, health officials report deaths once a month to the state Election Commission, which then purges the dead from voter registration rolls. In that window of time - a month or so before the election - there's a good chance dead voters will remain on the rolls on Election Day.	Commercial Appeal			
Houston	Texas	25-Nov-04	state legislature	State legislator who lost by 32 votes alleges 32 people voted twice and 101 residents from other districts cast ballots	Austin American Statesemen			
San Juan	Texas	12-May-05	city	The county is investigating three voters suspected of voting early and on election day	The Monitor			
King	Washington	22-Jun-05	gubernatorial	criminal charges filed against six voters for allegedly casting more than one ballot under a variety of circumstances: two for casting ballots in the names of recently deceased spouses; mother and daughter charged with casting a ballot in the name of recently deceased mother's dead husband; one for casting a ballot in the name of someone who had lived at the same address and died; one using someone else's name	Seattle Times			

**EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting**

King	Washington	13-Oct-05	gubernatorial	Republican officials release the names of 16 people they say voted twice. One person is found to be two people with the same name but different birthdates. Two names were referred to the prosecutors office, files were charged against one.	Seattle Times				
King	Washington	14-Oct-05	gubernatorial and local primary	Woman on Republican list under investigation for double voting	Seattle Times				
Appleton	Wisconsin	12-Jan-05	nonpartisan election	student who voted by absentee ballot and in person at college sentenced to probation	Post Crescent				
Milwaukee	Wisconsin	22-Aug-05	presidential	GOP claims there were nine cases where people voted in Milwaukee and another city. US Attorney says he found no fraud, but rather clerical errors.	Journal Sentinel				
Milwaukee	Wisconsin	21-Sep-05	presidential	Man charged with voting twice said he filled out two on-site registration cards by mistake but voted only once	Journal Sentinel				
Milwaukee	Wisconsin	5-Dec-05	presidential	Four people charged with double voting; none convicted	Milwaukee Journal Sentinel				
Laramie	Wyoming	2-Nov-04		Laramie County Clerks says there has never been any intentional double registration or double voting					
national		23-Oct-02	presidential	RNC compiles a national database of 3,273 people who voted twice in 2000. In North Carolina, the first name on the list was the chair of the Assembly's election law committee, and the California Secretary of State says they will be able to refute the claims.	USA Today				

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting

Two people are charged	Kansas City Star (January 8, 2005)	

**EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting**

<p>The Board of Elections reviewed all of the allegations of double voting and found that of 18 cases, 11 did not vote twice and seven did but did not intend to. All of the double votes were caught by the board and not counted twice. The board forwarded only one case of alleged double voting to the sheriff for further investigation.</p>	<p>2/24/2005, Akron Beacon</p>	

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - 'Dead' Voters and Multiple Voting

Most of the allegations seem to be cases of innocent mistakes that may have been technically illegal but not fraud	Houston Chronicle (January 16, 2005)	
See Washington summary		

'Dead' Voters and Multiple Voting

5/9/2007

Type	Absentee/in person	Partisan Allegation	Other Source for Allegation?	Investigation?	Other Official involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted/guilty pleas (Individuals)	Other determination	Follow-up possible? (Open investigations and/or pending charges)	City/County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident/allegation	Source of Resolution #1	Source of Resolution #2
Multiple			Yes		BOE				BOE Dismissed		Apache	Arizona	31-Aug-04	2002 general	County Attorney alleges some Navajo Nation voters cast multiple ballots. The Election Director dismisses many of the allegations and questioned why the county attorney had waited more than a year and a half to make them.	Arizona Republic			
Multiple	In person				DA	1				Yes	Eureka Springs	Arkansas	29-Jun-01	county judge	A special judge rules prosecutors must show the mayor intended to vote twice - he says he got confused when he voted early for a city bond election and the voting clerk offered him a primary ballot at the same time. He then voted in the primary at his precinct on election day.	AP			
Multiple	Absentee					4				Yes	La Puente	California	3-Aug-02	municipal	Four family members of a councilman were charged with voting twice because they voted absentee and on election day.	Los Angeles Times			
Dead	Both	Yes		Press						Yes	San Francisco	California	1-Mar-04	mayoral run-off	One of the candidates alleged that 400 people who are dead cast votes. The allegation was based on a computer program that cross-referenced voters and the social security death index using first and last names and date of birth. When the Chronicle also used middle initials and other identifying indicators, the list was whittled to five cases. Some were by absentee but a couple were in person.	San Francisco Chronicle			
Multiple				State								Colorado	25-Mar-05		58 of 64 counties responded to a request by the Secretary of State to report on fraud investigations. Only 13 counties have referred cases to prosecutors. Those cases included 41 instances of citizens voting twice. Denver County officials said they had 81 instances of double voting.	Denver Post			
Multiple	In person	Yes		State					Found Untrue	Yes		Connecticut	22-Oct-02	all	Secretary of State says that RNC allegations that 54 Connecticut voters cast ballots in 2 different states have been investigated and found to be false. 15 voted only in CT, 29 voted only in another state, four names were wrong because they had different birth dates, and three were referred to the FBI and US Attorney because information from the other state could not be obtained.	New Haven Register			
Multiple	In person	Yes									Bridgport	Connecticut	23-Sep-03	mayoral primary	Losing candidate alleges some voters were able to vote twice.	News 12			
Multiple	In person								Voters Deny/Possible mistakes			DC and Maryland	31-Oct-02	state primary and presidential election	Records indicate that 24 voters cast ballots in both DC and Maryland in the September 2002 primary and 90 voters did so in the 2000 election. Voters denied they had done so and election officials said it was possible for precinct workers to make mistakes when recording who voted.	Washington Post			

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Multiple	Absentee			County					Ballots not counted	Yes	Palm Beach	Florida	5-Dec-02	2002 general	The County State Attorney will be investigating about a dozen people accused of voting twice. Each cast an absentee ballot and voted on Election Day. The Secretary of State says they may have forgotten they voted absentee. They all had to vote by provisional ballots so none of the second votes were counted. This is the first time the Secretary's office has found people who voted twice.	Sun-Sentinel			
Multiple	Absentee								Ballots discarded		Indian River	Florida	2-Nov-04	presidential	One voter returned two absentee ballots - the first one was counted and the second discarded. A woman voted by absentee and then during early voting. Her absentee ballot will be thrown out.	Press Journal (Vero Beach)			
Multiple	Absentee			Press						Yes	Palm Beach	Florida	6-Nov-04	presidential	The Palm Beach Post reports that three voters cast absentee ballots and then filled out provisional ballots on Election Day. Local officials have asked the Attorney General to investigate. The Post reached two of the voters and they said they cast provisional ballots because when they tried to check on their absentee ballots they were unable to confirm they had been received.	Florida Times Union			
Multiple	Both			State				12		Yes	Volusia	Florida	6-Nov-04	presidential	Volusia officials said Friday they have identified 12 cases of suspected election fraud stemming from Tuesday's presidential election. All involved people trying to vote twice, said County Judge Steven deLaroche, a member of the county canvassing board. In one case, which occurred during early voting, a person was caught trying to feed an absentee ballot into a tabulating machine after casting a traditional ballot, deLaroche said. That person was stopped by a poll worker. In the other 11 cases, people who had voted by absentee ballot or at an early-voting site tried to vote a second time on Election Day, he said. In those cases, election workers discovered the attempts when computers showed those voters had already cast ballots. All the cases will be forwarded to the State Attorney's Office for prosecution.	Orlando Sentinel			

'Dead' Voters and Multiple Voting

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Multiple	Absentee			Federal					Clerical Error		Duval	Florida	31-Jul-05	presidential	Officials said in January that a review of records found more than 50 cases in which the same person had cast an absentee and in person ballot. An FBI investigation found that every one of those instances was due to a clerical error, such as someone signing the voter rolls before they were told they had to vote elsewhere.	AP			
Multiple	In person			County					Ballot discarded		Fulton	Georgia	30-Sep-04	primary	A man who may be facing felony charges for voting twice says he voted during the early period and that when he went to his precinct on election day to make sure that vote had been recorded, he was told it was not. The poll worker told him he should vote again. Fulton County investigated and found no other advance voters had voted again on the day of the election. The registration chief acknowledged the county was late getting names of advance voters to the polls. The advance vote was tossed out after it was discovered.	Atlanta Journal Constitution			
Multiple						1			Yes		Marshall	Illinois	13-Nov-04	2002 and 2004	A man has been charged for voting twice, in both Kane County and Marshall County	South Bend Tribune			
Dead				Press					Yes		Lake County	Indiana	16-May-04	county primary	A newspaper analysis shows that five votes cast were attributed to people who were dead well before the election.	AP			
Multiple	Absentee							1			Prairie Village	Kansas	8-Jan-05	2002 general	A woman who voted twice pled guilty -- she had voted from her business address and cast an absentee ballot from a different location in the same election.	Kansas City Star			
Multiple	In person			County							Hancock	Louisiana	3-Nov-04	presidential	A woman called a radio talk show Tuesday and admitted casting fraudulent votes in Hancock County. The woman said she voted once using her own name, but after realizing she was not required to show identification, she waited several hours and returned to the polls and used a friend's name. The county clerks said the incident seems to be isolated and her office has not received evidence of other fraudulent votes elsewhere in the county.	The Sun Herald			
Multiple											Duluth	Minnesota	3-Nov-04	presidential	A voter claims someone forged his signature to vote under his name. He reported the incident to City Hall	Duluth News-Tribune			

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Multiple	In person					1				Yes	Minneapolis	Minnesota	23-Feb-05	presidential	A felony charge filed Tuesday in Hennepin County District Court accuses Darin Randall Johnson, 34, of registering to vote and casting ballots in three different places in the November election. The criminal complaint alleges he filled out same-day registration forms and voted once in Brooklyn Park and twice in Minneapolis.	Saint Paul Pioneer Press			
Multiple	In person							1			Kansas City	Missouri	28-Mar-05	various	Man pleads guilty to casting double votes in four elections by voting in both Kansas and Missouri	Kansas City Star			
Multiple				Press		2				Yes	Kansas City	Missouri	September 6, 2004	all	Kansas City Star reports that their investigation shows there may be more than 300 voters voting twice in different counties. The exact number is impossible to determine because many counties have shredded their poll books and state computer files are rife with data errors. In fact, the number may be lower because the state computer files contain many errors that show people voting who did not actually vote. The study only flagged people registered in two places under exactly the same name and date of birth.	Kansas City Star, Belleville News-Democrat	Two people are charged	Kansas City Star (January 8, 2005)	
Dead/Multiple		Yes								Yes	New Jersey		16-Sep-05	presidential	Republican Party claims 4,755 people who have died voted in the election and 4,397 people registered to vote in more than one county voted twice	New York Times			
Multiple	Absentee										Sandoval	New Mexico	9-Nov-02	state house	A comparison of names on absentee-ballot-request rosters and affidavits for the absentee-in-lieu-of-ballots made it appear that 5 people had voted twice absentee by mail and absentee-in-lieu-of at the polls.	Albuquerque Journal			
Multiple	In person			DA						Yes	Sandoval	New Mexico	24-Nov-04	presidential	Bureau of Elections employees found a woman who voted on a provisional ballot at one precinct also had voted at the regular precinct where she is registered. The signatures at both precincts appeared to be the same, so elections officials sent the case to the district attorney.	AP			
Multiple						1				Yes	New York	New York	23-Oct-02 and 2001	2000 and 2001	Former conservative party candidate for lieutenant governor is arraigned on an indictment for voting twice, from two different Manhattan addresses. He denies the charge	Newsday			

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Multiple				Press					Many likely errors		North Carolina		24-Oct-04 and 2002		The Observer found up to 180 people who were listed as having voted in both Carolinas in either the 2000 or 2002 elections. Reporters found no one who admitted to double voting and discovered plausible explanations for many of the duplications. In one case, an Army captain in North Carolina shared the same name as his father in South Carolina. The father was likely mistakenly recorded under his son's name when he cast his ballot.	AP			
Multiple	Absentee					4			Yes		Jones	North Carolina	30-Oct-04	primary	Four men were charged with voting by absentee and on election day. Three denied the allegations or said they misunderstood the process.	AP			
Multiple				State							Gaston	North Carolina	16-Dec-04	presidential	There are differences in most precincts between the number of ballots cast and the number of people recorded as voting. State investigators have concluded there is no way to rule out double-voting or missing votes because poll workers cannot explain the discrepancies.	Charlotte Observer			
Multiple		Yes		Press					Turned out to be untrue		Ohio		2-Nov-04	presidential	Republican attorney cites a Plain Dealer report saying more than 27,000 people are registered to vote in both Ohio and Florida and that 100 people cast votes in both places four years ago. A Dispatch investigation of the allegations found little proof of duplicate voting after comparing the Ohio and Florida state databases and conducting further research. After culling the list through those methods, the Dispatch interviewed the people left in question. This failed to turn up anyone who had ever voted twice. Many had never been to Florida; some had never lived in Ohio.	Columbus Dispatch			
Multiple					BOE				1 of 18 found worthy of investigation	Yes	Summit	Ohio	8-Dec-04	local	The Director of the Board of Elections says the number of people under investigation for voting twice has decreased from 19 to 10. The board already determined that there were legitimate explanations for about half of the votes. In one case it appeared a man voted absentee and at the polling place but it turned out the absentee ballot had been cast by his son who has the same name.	Akron Beacon Journal	The Board of Elections reviewed all of the allegations of double voting and found that of 18 cases, 11 did not vote twice and seven did but did not intend to. All of the double votes were caught by the board and not counted twice. The board forwarded only one case of alleged double voting to the sheriff for further investigation.	2/24/2005, Akron Beacon	
Multiple	Absentee								No indictment		London	Ohio	9-Dec-04	presidential	A couple who admitted voting twice were not indicted - they voted by absentee ballot and then voted in person because they thought their absentee ballots had been lost	AP			

015569

'Dead' Voters and Multiple Voting

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Type	Absentee/In person	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted/guilty pleas (Individuals)	Other determination	Follow-up possible? (Open investigations and/or pending charges)	City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident/allegation	Source of Resolution 1	Source of Resolution 2
Multiple	Absentee				BOE	1				Yes	Logan	Oklahoma	24-Feb-01	primary	A man is charged with voting twice, once by absentee and once on election day. Although election board officials said they haven't seen a case like this in twenty years, they won't dismiss the charge.	Daily Oklahoman			
Multiple	Absentee			State						Yes		Oregon	11-Apr-02	2000 general	The Secretary of State has referred five cases of possible double voting to the Attorney General (Oregon votes entirely by mail)	AP			
Multiple	In person	Yes		State BOE				1 of 1200 accusations found legitimate		Accusations		Oregon	16-May-04	2000	Republicans claimed 1,200 Oregonians had registered in two counties and voted twice. But a state Elections Division investigation found that just a handful of voters were registered to vote in two counties and one had cast more than one ballot.	AP			
Multiple	In person	Yes		BOE				Found Untrue				Oregon	1-Nov-04	presidential	The state Republican Chair claims in a news conference that he has uncovered six cases of people voting twice. The elections division immediately showed that five of the voters had only voted once, and the sixth case had immediately been caught by election workers.	The Oregonian			
Multiple	In person			BOE				Found Untrue			Pawtucket	Rhode Island	14-Jan-03	General Assembly	The Pawtucket Board of Canvassers determined there was no truth to the allegation that Louis C. Yip, owner of the China Inn restaurant and a well-known developer, had shepherded the same couple to two different polling places, getting them to vote twice. City Registrar of Voters Dawn M. McCormick said that when voting records were checked, it turned out that the couple that Yip was accused of getting to vote at Towers East and Kennedy Housing was actually two different couples, both elderly and Chinese.	Providence Journal Bulletin			
Multiple				BOE							Hamilton County	Tennessee	19-Dec-02	county commission	The county election commissioner said she believed people were using other names to vote and that addresses were changed fraudulently. Voters sign fail-safe affidavits when they change their addresses and their voting records have not yet been updated. Oaths of identity are signed when voters have no other form of identification. The commissioner said she questioned the validity of 11 oaths of identity and 68 fail-safe affidavits in the District 4 election.	Chattanooga Times Free Press			

015570

'Dead' Voters and Multiple Voting

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Dead				Press						Yes		Tennessee	14-Dec-05	state senate	A second dead voter cast a ballot in the September special election held to fill the seat vacated by former state senator John Ford. Like a similar case documented earlier this week, this one involves an elderly voter who died weeks before the Sept. 15 election, an investigation by The Commercial Appeal found. Both of the suspect votes occurred in Precinct 27-1, in the heart of heavily Democratic North Memphis. By law, health officials report deaths once a month to the state Election Commission, which then purges the dead from voter registration rolls. In that window of time - a month or so before the election - there's a good chance dead voters will remain on the rolls on Election Day.	Commercial Appeal			
Multiple		Yes							Found to be mistakes		Houston	Texas	25-Nov-04	state legislature	State legislator who lost by 32 votes alleges 32 people voted twice and 101 residents from other districts cast ballots	Austin American Stateseman	Most of the allegations seem to be cases of innocent mistakes that may have been technically illegal but not fraud	Houston Chronicle (January 16, 2005)	
Multiple	In person		County							Yes	San Juan	Texas	12-May-05	city	The county is investigating three voters suspected of voting early and on election day	The Monitor			
Both						6				Yes	King	Washington	22-Jun-05	gubernatorial	criminal charges filed against six voters for allegedly casting more than one ballot under a variety of circumstances: two for casting ballots in the names of recently deceased spouses; mother and daughter charged with casting a ballot in the name of recently deceased mother's dead husband; one for casting a ballot in the name of someone who had lived at the same address and died; one using someone else's name	Seattle Times	See Washington summary		
Multiple		Yes				1				Yes	King	Washington	13-Oct-05	gubernatorial	Republican officials release the names of 16 people they say voted twice. One person is found to be two people with the same name but different birthdates. Two names were referred to the prosecutors office, files were charged against one.	Seattle Times			
Multiple										Yes	King	Washington	14-Oct-05	gubernatorial and local primary	Woman on Republican list under investigation for double voting	Seattle Times			
Multiple	Absentee							1			Appleton	Wisconsin	12-Jan-05	nonpartisan election	student who voted by absentee ballot and in person at college sentenced to probation	Post Crescent			

'Dead' Voters and Multiple Voting

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Multiple		Yes			US Attorney				clerical errors		Milwaukee	Wisconsin	22-Aug-05	presidential	GOP claims there were nine cases where people voted in Milwaukee and another city. US Attorney says he found no fraud, but rather clerical errors.	Journal Sentinel			
Multiple	In person					1				Yes	Milwaukee	Wisconsin	21-Sep-05	presidential	Man charged with voting twice said he filled out two on-site registration cards by mistake but voted only once	Journal Sentinel			
Multiple						4					Milwaukee	Wisconsin	5-Dec-05	presidential	Four people charged with double voting; none convicted	Milwaukee Journal Sentinel	see larger summary of Milwaukee		
Multiple											Laramie	Wyoming	2-Nov-04		Laramie County Clerks says there has never been any intentional double registration or double voting				
Multiple		Yes		State						Yes	national		23-Oct-02	presidential	RNC compiles a national database of 3,273 people who voted twice in 2000. In North Carolina, the first name on the list was the chair of the Assembly's election law committee, and the California Secretary of State says they will be able to refute the claims.	USA Today			

015572

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Type:	Absentee/ person	Partisan Allegation	Other Source for Allegation?	investigation ?	Other Official involvement?	Charged (Individuals)	Acquittal/ Dismissal	Convicted/ guilty pleas (Individuals)	Other determination	Follow-up possible? (Open investigations and/or pending charges)	City / County	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident/ allegation	Source of Resolution 1	Source of Resolution 2

015574

Type	Absente/In person	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted/guilty pleas (Individuals)	Other determination	Follow-up possible? (Open investigation and/or pending charges)	City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2

Type	Absentee person	Partisan Allegation	Other Source for Allegation	Investigation	Other Official involvement?	Charged (Individuals)	Acquittal/Dismissals	Convicted/guilty pleas (individuals)	Other determination	Follow-up possible? (Open investigations and/or pending charges)	City	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident/allegation	Source of Resolution 1	Source of Resolution 2

Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charge (Individuals)	Acquittal/Dismisal	Convicted/guilty/pleas (Individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City/County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident / allegation	Source of Resolution 1	Source of Resolution 2
										Phillips	Arkansas	2-Nov-02	primary	The sanitation director for Helena, the Phillips County seat, admitted in court to illegally casting more than 25 absentee ballots in the Democratic primary in May.	Arkansas Democrat-Gazette			
										South Gate	California	28-Jan-03	Treasurer and city council recall	Supporters of the recall, which is being led by the city's two police unions, say city employees have been illegally filling out absentee ballots against the recall.	Los Angeles Times			
Forgery-Dead										Bridgeport	Connecticut	6-Sep-02		Election officials found an absentee ballot application for someone who is dead	Connecticut Post			
			Federal		2					Bridgeport and New Haven	Connecticut	4-Nov-02	probate judge	FBI is investigating potential absentee ballot fraud in Bridgeport Democratic primary and two men face absentee ballot charges involving 2 New Haven primaries	Connecticut Post			
Coercion					1			Yes		Hartford	Connecticut	12-Aug	state legislature	former state representative is charged with seven counts of absentee ballot fraud for absentee ballot coercion in a particular apartment complex	Hartford Courant			
Ineligible			BOE					Yes		Bridgeport	Connecticut	3-Dec-03	town committee	The elections commission wants four brothers to be charged with fraudulent voting for allegedly submitting illegal absentee ballots in the March 2002 Democratic Town Committee primary. The commission alleges that none of the brothers lived in Bridgeport when they voted in those city elections.	Connecticut Post			
Ineligible								Yes		Smyrna	Delaware	3-Aug-05	town	A challenger to the mayor who lost by 2 votes is suing the mayor for personally delivering absentee ballots to minority residents, some of whom were not eligible to vote	The News Journal			
Forgery-Unknown					4			Yes		Winter Garden	Florida	5-Mar-02	city commissioner	Four are charged with forging names on absentee ballots	AP			
Forgery-Other Voters			BOE					Yes		Volusia	Florida	3-Oct-03	city	Elections officials inquire into 43 absentee ballot request forms with the wrong date of birth and 3 requests with forged signatures	Orlando Sentinel			
Ineligible					1			Yes		Winter Haven	Florida	6-Jan-04	town	criminal complaint filed against woman for voting by absentee ballot when she did not live in the district	Polk Online			

015577

Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charged (individuals)	Acquittal/Diagonal	Convicted/guilty pleas (individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City / County	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2
Coercion			County					Special Prosecutor found no determination of fraud		Hialeah	Florida	21-Mar-04	city council	Miami-Dade public corruption detectives fanned across Hialeah on Friday, questioning employees of the city's public housing agency, as well as friends and relatives of politicians aligned with Mayor Raul Martinez. Sources close to the investigation say those interviewed were asked about their alleged handling of absentee ballots gathered from voters - many of them elderly - in the city's public housing units.	Miami Herald	A special state prosecutor said he found no evidence of election fraud after a yearlong investigation of absentee voting at the Hialeah Housing Authority during that city's 2003 elections	Miami Herald, May 11, 2005	
Mishandling			Grand Jury							Orlando	Florida	5-Mar-05	mayoral	A grand jury is investigating the possible mishandling of absentee ballots by a minority voting advocate who has worked for many campaigns	Orlando Sentinel	All charges are dropped. Democrats allege the whole case was politically motivated; Florida prosecutors dropped a case charging the mayor with paying a campaign worker to collect absentee ballots. Three others indicted on the same charge were also cleared.	April 21, 2005 Orlando Sentinel	April 21, 2005, The New York Times
Coercion		Yes								Cook	Illinois	15-Mar-02	state	ACORN alleges that a man went to a senior citizen home and voted the seniors' absentee ballots	Chicago Sun-Times			
Coercion				Court				Election thrown out		Calumet City	Illinois	3-Sep-03	mayoral	A county judge threw out and reversed an election because of absentee coercion of disabled voters	Chicago Tribune			
Other Voters			DA						Yes	Marion	Indiana	1-Nov-02	county	The county prosecutor is investigating absentee ballots in which signatures don't match, voter's names were misspelled, and correction fluid was used to change the address	Indianapolis Star			
			State Police						Yes	Madison	Indiana	29-Apr-03	primary	State police are investigating whether Democratic primary absentee ballots were delivered to nursing homes that traditionally vote Republican	Herald Bulletin			
Forgery-Voters Who Moved			County						Yes	Lake	Indiana	11-Jul-03	town	Allegations are made of absentee ballots from voters who moved and forged signatures by one person. Case will be heard by a county judge	Northwest Indiana News			
Ineligible			BOE						Yes	Porter	Indiana	31-Mar-04	town	Elections board investigates allegations that two ineligible voters voted by absentee ballots	Northwest Indiana News			

015578

Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charged (Individuals)	Acquitted/Dismissal	Convicted/guilty pleas (Individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City/County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2
Forgery-Dead				Court					Yes	East Chicago	Indiana	23-Jun-04	mayoral	The Indiana Supreme Court is considering whether to order a special mayoral election. The losing candidate claims he would have won if not for hundreds of fraudulent absentee votes cast for his opponent, including some cast on behalf of dead voters	AP			
Mishandling/Ineligible					3				Yes	Anderson	Indiana	11-Dec-04	mayoral	The longtime Democratic Party chairman in Madison County is accused of illegally delivering absentee ballots cast by two Anderson residents. Another man is accused of 17 Class D felony charges for allegedly registering absentee voters, then telling them how to vote and picking up their ballots. A woman is accused of completing an absentee ballot in September 2003 that listed an address where she did not live.	Indianapolis Star			
Multiple				Court	4		Court invalidates 155 ballots		Yes	East Chicago	Indiana	August 6, 2003, August 8, 2003	mayoral primary	It is alleged that city workers were asked to vote absentee, acquire absentee applications, and given paid election day positions for bringing in absentee votes	Northwest Indiana News	four people indicted, one for receiving absentee ballots for people ineligible to vote, one for failing to appear before the grand jury, and two for voter fraud and lying to the grand jury; county judges tosses out 155 absentee ballots but this does not change the election outcome; DOJ begins investigating	WISH TV, November 18, 2003; Northwest Indiana Times, January 21, 2004	
Coercion			Police						Yes		Maine	13-Feb-04	state house	Police have begun investigating allegations that elderly voters were pressured into casting absentee ballots for a Green Independent candidate in Maine's special election. Chief Roger Beaupre said Thursday his department has received 10 complaints of voter intimidation from elderly voters who were told votes for candidates other than Green Independent candidate Dorothy Lafortune did not count.	AP			
Coercion			State Police							River Rouge	Michigan	4-Apr-01	mayoral	state police investigating absentee coercion in a senior apartment building	Yahoo News			

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Absentee

5/9/2007

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Multiple			Federal	Court					Yes	Detroit	Michigan	8-Nov-05	mayoral	A lawsuit alleges the City Clerk's assistants have allowed voters to fill out ballots in group settings, didn't sign their names on ballot envelopes and advertised their services in nursing homes. She also sent 130,000 unsolicited absentee ballot applications defying a court order.	Detroit Free Press	County Circuit Court judge ruled the Clerk violated the law; There is an election contest and a federal investigation involving irregularities with absentee ballots.	November 9, 2005 Detroit Free Press; November 24, 2005 Detroit Free Press	
Coercion	Yes								Yes	Houston	Mississippi	10-Nov-05	mayoral	Candidate files a complaint alleging 59 absentee ballots are questionable. He produced a letter from two elderly absentee voters saying they were given plates of food in exchange for allowing his opponent to fill out their ballots.	AP			
N/A	Yes										Missouri	19-Sep-04	gubernatorial	The state Democratic Party accused Republicans of coercion when they asked county clerks to send the names of people who had requested absentee ballots	AP			
			State/Federal						Yes	East St. Louis	Missouri	5-Jan-05	city	investigations by the state attorney and the FBI into unspecified absentee ballot fraud	Post Dispatch			
			Federal						Yes	Tonopah	Nevada	23-Oct-02	local general and primary election	The FBI investigates questionable absentee ballot requests	Pahrump Valley Times			
Forgery-Other Voters					1				Yes	Las Vegas	Nevada	26-Apr-03	assembly	Man is indicted because he voted other people's ballots using absentee voter forms for people who lived outside the district.	AP			
Coercion	Yes									Atlantic City	New Jersey	31-Oct-01	Mayoral	Mayor Whelan's campaign has alleged that street operatives for the mayor's challenger, Councilman Lorenzo Langford, tricked voters into requesting absentee ballots and then went to their homes to bully them into filling the ballots out for Langford. The Whelan campaign has also alleged that Langford has stockpiled absentee ballots to fill out fraudulently. The Langford campaign yesterday denounced Whelan's actions as a means of suppressing voter rights and said it would file a federal civil-rights lawsuit this week.	Philadelphia Inquirer			

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Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismisal	Convicted/guilty pleas (Individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2
Multiple			State						Yes	Palisades Park	New Jersey	6-Nov-02		The Deputy Attorney General said in a court filing that the prosecutor is investigating four types of irregularities: "1) Improprieties in the manner in which voters requested absentee ballots; 2) instances where the voter has stated that they received assistance in voting but that fact is not noted on the voter certification; 3) instances where the absentee ballot was delivered to the Board of Elections by a person other than the one to whom the voter gave the ballot; 4) instances where the voter gave an unmarked ballot to another person."	The Record	276 absentee ballots from the 2002 election in Palisades Park are still impounded in the office of Patricia DiCostanzo, the Bergen County superintendent of elections.	October 4, 2004, The Record	
Forgery			BOE						Yes	Atlantic City	New Jersey	9-Jul-03	county primary	Board of elections requests an inquiry into alleged forged absentee ballots	Atlantic County News			
Coercion/Forgery			Federal						Yes	Passaic	New Jersey	22-Sep-04	county	The FBI is investigating charges that voters targeted by a Democratic campaign had their signatures forged or had been pressured or misled into voting absentee	Herald News (Passaic)			
Forgery-Other Voters										New Jersey	New Jersey	4-Oct-04		In the city of Passaic, three dozen voters claimed they'd been victims of absentee ballot fraud in 2003.	The Record			
Coercion				Court					Yes	Albany County	New York	8-Mar-04	special primaries	131 absentee ballots were delivered by a ward leader, leading to vague allegations of coercion. All absentee ballots and machines impounded under a court order	Albany Times Union			
				Court				140 ballots thrown out		Albany County	New York	10-Mar-04	county legislature	One person filled in more than 140 signed absentee ballot applications, and there were other administrative errors in absentee ballot distribution and return. The candidates made a deal before the judge ruled on the case to have a special election; the absentee ballots are not counted	Albany Times Union			
			DA						Yes	Haskell	Oklahoma	7-Nov-02	district attorney	An absentee ballot scandal is being investigated in Haskell County, where one man allegedly admitted notarizing 42 absentee ballots without having the voters present while another man helped him, the District Attorney said.	Daily Oklahoman			
Coercion										Providence	Rhode Island	23-Aug-02	mayoral	Elderly woman says strangers coerced her into giving them her ballot	Providence Journal-Bulletin			

Absentee

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Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charge (Individuals)	Acquittal/Demissal	Convicted/guilty pleas (Individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City/County	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of incident/allegation	Source of Resolution 1	Source of Resolution 2
Multiple										Senate District 30	South Carolina	27-Sep-04	state senate primary	A person with connections to the Williams campaign nicknamed "The Voter Man" convinced elderly voters, some living in residential care facilities, to fill out absentee ballot registration forms. Some say they never received a ballot, even though records indicate a ballot was cast in their names. * At least one staff member at a Mullins care facility said non-communicative Alzheimer's patients were coaxed into casting absentee ballots. * Another person with ties to the Williams campaign turned in nearly 60 absentee ballots to election officials, many from elderly voters. While not technically illegal, the volume of absentee votes raised eyebrows within the Norwood campaign. As a result of suspected fraud the party ordered a new election and the cases are being criminally investigated.	The State			
			State Federal			1					South Dakota	20-Oct-02	state wide	several counties forward questionable absentee ballot requests	Angus Leader	October 25, 2002: Red Earth Villeda, a former Democratic contractor is investigated; October 27, 2002: State and federal agents target 25 South Dakota counties; October 31, 2002: no illegally cast ballots are found (see South Dakota summary)	Angus Leader	
Forgery-Unknown			DA					Yes		Shannon	South Dakota	30-Oct-04	presidential	The prosecutor in Fall River County says he will investigate possible multiple voting by absentee ballot. The multiple ballots were cast by fewer than 10 people	AP			

015582

Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charge (Individuals)	Acquittal/Dismittal	Convicted/guilty pleas (Individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City/County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of Incident/allegation	Source of Resolution 1	Source of Resolution 2
					4		4			Sioux Falls	South Dakota	2-Nov-04	senatorial	Three former Republican notary publics pled guilty to signing absentee ballots without witnessing the signatures. Three other former GOP workers are charged, as is one Daschle staff person accused of not being present for two notary applications. Officials say none of the incidents affected any votes	AP	A fourth former employee of the South Dakota Republican Party's get-out-the-vote operation has pleaded guilty to improperly notarizing absentee-ballot re-requests, and another who had pleaded not guilty will appear in court next week to change his plea. Six workers for the GOP Victory effort resigned last month after questions surfaced about some absentee-ballot applications collected at college campuses across the state. Charges were filed after officials said the workers notarized applications collected by other workers, violating a state law that requires notaries to witness documents being signed before they can give them their official seal.	November 4, 2004, Argus Leader	
Coercion	Yes									Dallas	Texas	10-May-01	district council	Both candidates accuse the other of manipulating the absentee ballot votes of senior citizens	Dallas Observer			
Forgery-Other Voters					1			Yes		Dallas	Texas	16-May-01	city council	Several affidavits alleging mail-in voter fraud have been submitted to the Dallas County district attorney's office, according to election officials. But prosecutors have declined to comment about whether those allegations, or any others, would result in a criminal complaint.	Dallas Morning News	A voter fraud investigation has resulted in the indictment of a Dallas woman who is accused of filling out a mail-in ballot in May without the voter's permission, a Dallas prosecutor said Tuesday.	February 13, 2002, Fort-Worth Star Telegram	
Forgery										Dallas	Texas	27-Jul-02	district council	A candidate for the council alleged three campaign workers spent Friday reviewing mail-in ballots and applications for the ballots and found at least 69 that they believe might have forged signatures on either document.	Fort Worth Star-Telegram			
Forgery-Unknown			DA					Yes		Dallas	Texas	22-Apr-03	city council	A candidate submitted 12 absentee ballot applications with forged signatures. The DA is investigating.	Dallas Morning News			

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Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charged (Individuals)	Acquitted/Demitted (Individuals)	Convicted/guilty/pleas (Individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident / allegation	Source of Resolution 1	Source of Resolution 2
Forgery-Other Voters					17		5			Heame	Texas	18-Oct-03	municipal	Man fined and sentenced to five years probation for voting in the names of three dozen other people by absentee ballot. He is the fifth person to plead guilty to similar charges brought by a grand jury in August. 17 were indicted.	Houston Chronicle			
Forgery-Unknown					30			Yes		Heame	Texas	28-Dec-03	mayoral	30 people were indicted for forged absentee ballot applications and sending in multiple absentee ballots	Star Telegram			
Forgery-Unknown/Dead/Other Voters					5					El Paso	Texas	12-Feb-04	water board	Several mail in ballot requests appeared to be filled out by the same person and a few were in the names of dead people. A precinct chairwoman was charged with four counts of tampering with government records	Assoc Press	Five people have been charged with sending in absentee ballot applications in the names of other people	2/13/2004, El Paso Times	
Multiple										Hidalgo	Texas	3-Mar-04	miscellaneous, from congress to judge's race	Complaints were made to the Board of Elections against workers for several campaigns of irregularities concerning absentee ballots, including coercion of elderly voters, a complaint that someone requested an absentee ballot for a dead voter; four people said their ballots were already sealed when they received them, and a voter whose absentee ballot that was sent elsewhere	The Monitor			
Forgery-Dead			DA					Yes		Bexar	Texas	25-Mar-04	congressional	The names of 42 deceased people, most of whom lived on the South Side, appeared on applications for mail-in ballots that were submitted to election officials for the primaries. A computer at the Bexar County elections office flagged the applications and the district attorney's office is investigating. No ballots appear to have been sent to a dead person as a result of the applications, election officials have said. However, the applications were cited by Henry Cuellar - a Democratic candidate for the District 28 congressional seat who lost by 145 votes - as one of several concerns that persuaded him to call for a recount this week. The list of applicants includes next-door neighbors, people who never voted when they were alive, and two who died in 1988.	San Antonio Express-News			

015584

Absentee

5/9/2007

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														All but one bear the deceased's correct voter registration number. Each had the correct address and voting precinct, and all indicated the voter was older than 65, which is one of the reasons individuals may obtain a mail-in ballot. But whoever filled out many of the applications didn't alter his or her handwriting on the forms, all of which supposedly were done by the individual voters. Two batches of the falsified documents show clear similarities.				
Coercion										South San Antonio	Texas	23-May-04		Elderly voters complain of "vote brokering" whereby "coyotes" pressure them into voting by absentee ballot. Investigators have looked into this in the past, and there has only been one conviction of someone pressuring others to vote absentee.	San Antonio Express-News			
Forgery-Dead			DA					Yes		Robstown	Texas	27-May-04	school district	The District Attorney requested a recount of ballots because of many complaints of people filing mail-in ballots sent to homes of people who have died. One of the candidates says that in one instance a wife mailed in the ballot of her husband who just died, and another was a son's vote being mistaken for the father's because they had the same name.	Corpus Christi Caller-Times			

015585

Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charge d (Individuals)	Acquittal/Dismisal	Convicted/guilty pleas (Individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City/County	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution	Source of Resolution
Multiple			Police		5				Yes	Falfurrias	Texas	11-Sep-04	city	After a May 26 recount, Jaime received 501 votes and Martinez wound up with 500 votes. In June, Martinez filed an election contest in district court claiming that "numerous co-conspirators" obtained votes by instructing the voters to cast their ballots for particular candidates. But a criminal investigation into voting violations started before voters cast the final ballots, according to a police report. So far, the criminal investigation has resulted in five felony and one misdemeanor indictments: Santiago Vela was indicted on a bribery charge; Armando Gonzalez, Vanessa Kiser and Roel Mireles were indicted on illegal voting charges; Magdalena Saenz was indicted on an unlawful delivery of a voting certificate charge. One woman, Mirna Quintanilla, was indicted on a misdemeanor charge for allegedly filling out a mail-in ballot for a voter without permission.	Corpus Christi Caller-Times			
	Yes									Houston	Texas	11-Nov-05	mayoral	Candidate alleges that 64 of the 579 absentee ballots cast in the primary are questionable.	AP			
Tampering			Police							Hidalgo	Texas	004, March 6,	primary	Texas Rangers investigate tampering with mail ballots by "polltiqeras"	The Monitor			
Coercion					1				Yes	Gate City	Virginia	2-Aug-05	mayor	mayor is indicted on 37 felony counts of voter fraud for coercing choices on absentee ballots	Roanoke Times	The former mayor was arraigned in Scott County Circuit Court. He entered not guilty pleas to 18 charges of aiding and abetting in violating the absentee voting process, 17 charges of making a false statement on an absentee ballot application, and two charges of conspiracy. Authorities say he targeted elderly and unsophisticated voters, pressuring them to give false reasons for voting absentee and sometimes filling out their ballots himself.	8/17/2005, Roanoke Times	

015586

Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charge (Individuals)	Acquittal/Dismittal	Convicted/guilty pleas (Individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident / allegation	Source of Resolution 1	Source of Resolution 2
Forgery-Voters/Coercion			DA						Yes	Milwaukee	Wisconsin	5-Mar-03	county board recall	A police handwriting expert labeled signatures on 60 absentee ballot envelopes suspicious and elections officials and the DA questioned 36 more. The 96 are among 182 that were distributed to 5th District voters by the African American Coalition for Empowerment. The group had residents agree to ask the city to send absentee ballots to their offices rather than directly to the voters. The group then went to the homes, witnessed the votes and returned the ballots.	Milwaukee Journal Sentinel			
Forgery-Other Voter							1			Milwaukee	Wisconsin	15-Jan-04	county recall	A voting rights activist was convicted of three felony counts stemming from his management of an absentee ballot campaign. Although evidence suggested forgery and other mischief, the case turned on one voter registration card. The voter had his signature forged by his girlfriend, and the activist had signed the form as a deputy registrar.	Milwaukee Journal Sentinel			
Forgery-Unknown							1			Milwaukee	Wisconsin	20-Feb-04	county recall	One person is convicted for forging absentee ballots	Milwaukee Journal Sentinel			

Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charge (Individuals)	Acquittal/Dismissal	Convicted/guilty pleas (Individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2

015538

Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charge (Individual)	Acquitted/Dissal.	Convicted/guilty pleas (Individual)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City/County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2

015589

Absentee

5/9/2007

Type	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charge (Individuals)	Acquittal/Dissal	Convicted/guilty (Individuals)	Other determination?	Follow-up possible? (Open investigations and/or pending charges)	City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident / allegation	Source of Resolution 1	Source of Resolution 2

EAC Voting Fraud-Voter Intimidation Preliminary Research

Nexis Articles - Noncitizen Voting

City / County	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Source1	Source 2	Source 3
Maricopa County	Arizona	5-Nov-05		159 noncitizens were found on the voting rolls. The county recorder said all of the cases involved people who misunderstood voting requirements. The county attorney nonetheless has charged ten of the immigrants with felonies.	LA Times			
Compton	California	12-Feb-02	mayor and city council	After an election legal challenge, two incumbents who originally lost were reinstated. In her ruling, the judge said numerous noncitizens voted illegally.	Los Angeles Times			
Pontiac	Michigan	11-Dec-01	mayor	Losing candidate claims there was "suspect" noncitizen voting	Detroit Free Press			
	Minnesota	23-Feb-05	presidential	Secretary of State Kiffmeyer said that she has asked several county attorneys across Minnesota to investigate evidence her staff uncovered that suggests some noncitizens illegally registered to vote in the November election. "So far, at least, we have 32 people who have registered to vote and seem to be -- allegedly -- not U.S. citizens," Kiffmeyer said. Some of the 32 also voted in the election. Both registering and voting are illegal for noncitizens. Kiffmeyer said her staff discovered the possible criminal offenses by comparing voter registration cards to driver's license records, which now identify noncitizens visiting the United States on visas.	Saint Paul Pioneer Press			
	North Carolina	24-Oct-04		A Washington-based advocacy group for tougher immigration laws recently said that it believes illegal immigrants may be registered to vote in North Carolina because they were able to sign up when obtaining driver's licenses without Social Security numbers. State elections and Division of Motor Vehicles officials say they've run two checks - one in 2002 and again this year - of people who received driver's licenses without proof of citizenship and found only a handful who had registered to vote. Those cases are being investigated, they said.	AP			
Houston	Texas	28-Jan-05	state house	Republican representative ousted narrowly by Democratic opponent alleges there was noncitizen voting in the election	Dallas Morning News			
	Utah	30-Aug-05		The Attorney General will investigate allegations in a legislative audit that found evidence of fourteen people believed to be noncitizens who have voted in a past election. The auditors office has said that a follow up investigation found that 6 of the 14 were actually citizens, two were confirmed by immigration authorities as having prior deportation orders and the other 6 are still under review. Of the six that were citizens, three had their Social Security numbers mistyped in the database and three were naturalized citizens.	Desert Morning News			

Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2

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EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Vote Buying

City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Source1	Source 2	Source 3
Phenix City	Alabama	31-Aug	municipal	The Attorney General and DA are investigating allegations of buying of absentee ballot votes	Columbus Ledger-Enquirer			
Pulaski	Arkansas	29-Aug-02	US House	Candidate says opposing campaign's consultant was paying residents of black nursing homes to cast absentee ballots and trying to skew the vote of black voting precincts in some cases.	Arkansas Democrat-Gazette			
Washington Park	Illinois	17-May-01	village	Candidate alleges that one voter was paid not to vote after being paid to vote absentee and two other people, possibly noncitizens, were paid for absentee ballots.	Belleville News-Democrat			
East St. Louis	Illinois	30-Jun-05	county	5 convicted of conspiring to buy votes with cash, cigarettes and liquor	Chicago Sun Times			
Berrien County	Indiana	16-Apr-05	city commission	A Berrien County judge Friday overturned the recall of Glenn Yarbrough in a civil trial against the city of Benton Harbor and Clerk Jean Nesbitt. In his ruling, Judge Paul Maloney said the true will of the people was violated by gross voter fraud in February's recall election. He cited bought votes, forged ballots, and jobs promised in return for "yes" votes, crimes allegedly committed by someone other than Yarbrough.	South Bend Tribune			
Clay	Kentucky	24-Oct-02	county	federal prosecutors are investigating absentee vote buying	Courier Journal			
	Kentucky	6-Nov-02	primary	In Knott County, there were nearly a dozen complaints in the primary alleging vote-selling for drugs, said assistant commonwealth's attorney Lori Daniel, but no one has admitted it. She said the attorney general's office has a pending investigation in Knott County. Reports of vote-buying also were reported in Magoffin, Pike and Floyd counties during the primary.	Courier Journal			
London	Kentucky	16-Sep-04	2002 judicial	Man found guilty of paying \$10 each to a group in a church parking lot after voting	AP			
Winnfield	Louisiana	12-Apr-02	police chief and mayor	Losing candidate accuses opponent of paying ten people to vote	Daily Town Talk			
Marksville	Louisiana	15-May-02	mayoral	Two men accused of buying votes for small amounts of money	AP			
Iberville	Louisiana	13-Dec-02	primary	Iberville Parish Councilman Howard Oubre Jr. and three other Plaquemine residents were arrested Thursday for allegedly paying people to vote absentee in a recent election. Oubre went into the community and solicited people to vote absentee in the Oct. 5 primary election. Oubre allegedly paid these people between \$3 and \$10	The Advocate			
River Rouge	Michigan	4-Apr-04	mayoral	State police are looking into allegations that the mayor's supporters offered payments of up to \$25 for absentee votes	Yahoo News			

015601

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Vote Buying

Ingham	Michigan	6-Oct-04	presidential	The Michigan Republican Party accused Michael Moore of bribing students to vote in the presidential election. The party sent letter to prosecutors in four counties. As part of his tour, Moore tossed out packets of low-priced instant noodles and 12-packs of Hanes briefs to students who promised they would vote.	Lansing State Journal			
Detroit	Michigan	15-Dec-05	mayoral	Detroit's top elections official said Wednesday she is concerned that people may have sold votes on the eve of the city's Nov. 8 election, and said she may ask the Wayne County prosecutor to investigate. Gloria Williams, director of elections for City Clerk Jackie Currie, cited a Nov. 7 incident in which a Detroit man told police he thought he witnessed a scheme to pay people for votes as he stood in line to cast an absentee ballot. Detroit police took a report from the man but closed the case without further contact with the suspects or witnesses. A woman cited in the police report said nothing improper happened - political activists were coordinating with poll workers. Williams said the question is whether the people were required to vote a certain way in exchange for jobs handing out literature and promoting candidates at voting places the next day.	Detroit Free Press			
Tippah	Mississippi	27-Mar-04	sheriff	Seven people have been charged for buying people's votes on absentee ballots	AP			
East St. Louis	Missouri	2-Jun-05	mayoral	A precinct committeeman and four others are on trial, accused of using money from the County Democrats to buy votes	St. Louis Post-Dispatch			
Lenoir	North Carolina	9-Mar-03	sheriff	For \$ 10, \$ 20 or \$ 25, dozens of people -- perhaps more than 300 -- sold their votes in a race that saw a veteran Democratic sheriff turned out of office. The State Bureau of Investigation has been on the case for months, assigning as many as 10 agents to it. The U.S. Attorney's Office in Charlotte is also involved. So far, there have been no indictments.	News and Observer			

EAC Voting Fraud-Voter Intimidation Preliminary Research
 Nexis Articles - Vote Buying

Rosebud Indian Reservation	South Dakota	23-Dec-02	US Senate	<p>Republicans investigating Election Day irregularities in South Dakota based allegations of vote buying on rumors discussed on the Rosebud Indian Reservation, says David Norcross, a New Jersey lawyer who presided over the search for fraud.</p> <p>Republicans collected statements on a wide range of events, including accusations of people offering multiple names to vote and improper use of polling places by Democratic workers. The most serious claims, however, were three affidavits signed by Native Americans from the Mission area who said they were offered \$10 to vote by the driver of a van with a Tim Johnson for Senate sign in the window.</p> <p>Attorney General Mark Barnett has said that two of those statements were false and the third was suspect, but not before the allegations became the basis of reports in several national media outlets.</p>	Argus Leader			
Pine Ridge Reservation	South Dakota	2-Nov-04	presidential	On the Pine Ridge Indian Reservation, investigators are looking into Republican allegations of vote-buying.	AP			
Gregg	Texas	9-Sep-03	constitutional amendment	DA is investigating an employer for allegedly giving concert tickets to workers who cast early ballots	Tyler Morning Telegraph			
McAllen	Texas	20-Aug-05	mayoral	Grand jury is investigating whether "politiqueras" tried to buy absentee ballots	The Monitor			
Hidalgo	Texas	22-Dec-05	mayoral	Ten people were indicted on allegations of telling people who to vote for and unlawful solicitation of ballots for money.	AP			
Falfurrias	Texas	11-Sep-04	city	Candidate alleges the opposing campaign bribed some voters with money, beer and cigarettes in exchange for their votes, according to his lawsuit contesting the election	Corpus Christie Caller Times			
Appalachia	Virginia	11-May-05	council	State police are looking at claims that supporters of a candidate offered food, cigarettes and liquor to residents in a public housing complex for letting the supporter fill out absentee ballots for them	The Post			
Logan	West Virginia	19-Jul-04	federal primaries	County sheriff pleads guilty to conspiring to buy votes in elections he was running in	AP			
Lincoln	West Virginia	31-May-05	primary	12 people are indicted for selling their votes for \$20 or \$40.	AP			
Logan	West Virginia	29-Nov-05	various	Logan County Clerk plans to plead guilty to conspiring to bribe voters between 1992 and 2002. Prosecutors already have guilty pleas from the county sheriff and the police chief.	AP			
Logan	West Virginia	2-Dec-05	House primary	FBI operates a sting operation by putting up a phony candidate to catch a man engaging in buying votes. Man is being tried for conspiracy to buy votes	Washington Post			

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	West Virginia	1-Jan-06		Thirteen people have been convicted of vote buying in the southern part of West Virginia over the last several years, including the 2004 primaries. However, the federal investigation is ongoing. In terms of cooperating witnesses, prosecutors may also continue to rely on Thomas Esposito. In an apparently unprecedented move, the FBI briefly planted the former longtime Logan mayor as a candidate in a 2004 legislative race. Evidence supplied by Esposito and his 75-day candidacy yielded December guilty pleas from two Logan County residents	AP				
Hanna	Wyoming	27-Apr-01	mayoral	State Division of Criminal Investigation said gratuities, such as alcoholic beverages, were allegedly offered in exchange for votes.	AP				

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**EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - Vote Buying**

Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2

015608

EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - Vote Buying

5 Democratic operatives were convicted, four pled guilty	Belleville News Democrat (July 3, 2005)	

**EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - Vote Buying**

<p>Republican attorneys fanned out across the state on Election Day to gather affidavits to show vote buying. The State Attorney General (a Republican) says that of the 50 affidavits only three alleged criminal activity, and two of those proved to be false. One person is being investigated. Two of the affidavits were found to have been forged or perjurious. Each affidavit states that the person allegedly signing it called to have been picked up by a van driver, offered 10 to vote, taken to the polling place and home again and again offered the 10. Most of the allegations focused on the Rosebud Reservation</p>	<p>1/1/2003, Indian Country Today (Lakota Times)</p>	
<p>A special prosecutor was named to oversee an investigation into alleged vote buying and ballot theft in Appalachia</p>	<p>Roanoke Times, September 24, 2004</p>	

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EAC Voting Fraud-Voter Intimidation Preliminary Research
Nexis Articles - Vote Buying

1. August 2003 two acquitted of vote buying in the primary. In June 2003 another man in Lackey was found innocent of vote buying. Two indicted in Knott County pled guilty earlier in August 2003. 15 still under indictment 2. February 3, 2004: Knott County man sentenced to 20 months in prison for vote buying in the 1998 primary. The Knott County Judge-Executive and another man were convicted October 1 of vote buying	August 16, 2003, Courier Journal	AP February 3, 2004

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015614

Intimidation and Suppression

5/9/2007

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted/guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1
Challenges	Yes		third-party							Alabama	29-Aug-04	city council	About 50 challenged ballots in a Bayou La Batre City Council contest have stirred discrimination concerns because they were all demanded from Asian-American voters. Fred Marceaux of Coden, an advocate for the Asian community, called the challenged ballots "scare tactics." By all accounts, the voters were challenged to their faces as they walked into the polling place at the Bayou La Batre Community Center. Being publicly confronted on their first trip to the voting booth visibly up-set many of those who were challenged. Until this year, Asians here have seemed reluctant to step into local politics, preferring to live as a self-contained community for the most part.	AP		
Polling Place Harassment			Pollworker/third-party					Yes		Arizona	1-Oct-04	presidential	A pollworker says that during the primary two men came in and said they were checking the polls to see if illegal aliens were voting. They said the name of their organization was Truth in Action. A voting rights advocate says the group was visiting many poll sites. The editor of the organization's website says he visited the polls wearing a black t-shirt with "US Constitutional Enforcement" on the back and the image of a badge on the front. He carried tools, a camera and a video recorder to "film all the conversations I had." He said that for the general election, if he sees "a busload of Hispanic individuals who didn't speak English and who voted," he plans to follow that bus to make sure they aren't voting more than once.	The Progressive		
Structural Barrier								Yes		Arizona	6-Nov-05		In Phoenix (Maricopa County) more than 10,000 people trying to register have been rejected for being unable to prove their citizenship. Yvonne Reed, a spokesman for the recorder's office, said that most are probably U.S. citizens whose married names differ from the ones on their birth certificates or who have lost documentation. She hopes the number of rejected voters shrinks as election officials explain the new requirements. But, she said, "there will be an amount of people who we will not be able to get on the rolls because of not being able to find the right documents or just losing interest." In Tucson (Pima County) 60 percent of those who tried to register initially could not. Elections chief Chris Roads said that all appeared to be U.S. citizens, but many had moved to Arizona recently and couldn't access their birth certificates or passports. Many of those prospective voters have since been able to register, but Roads said about 1,000 citizens are still unable to vote in this week's election because of Proposition 200 requirements.	Los Angeles Times		
Challenges	Yes	Yes								Arkansas	31-Oct-02		State Democratic Party Chair accuses a Republican poll worker of focusing only on black and elderly voters during his challenges.	Arkansas Democrat Gazette		

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Intimidation and Suppression

5/9/2007

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted/guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution: 12
Polling Place Harrassment	Yes	Yes							Yes	Arkansas	6-Nov-02		In Arkansas, where voters were allowed to cast their ballots up to two weeks early to lessen the pressure on election day, there were allegations of intimidation in the early voting. Democrats claimed that black voters were photographed as they arrived at polling booths and had their identities subjected to disproportionate scrutiny.	The Guardian		
Polling Place Harrassment	Yes	Yes							Yes	Arkansas	30-Dec-02		Democrats accused Republican poll watchers of driving away voters in predominantly black precincts by taking photos of them and demanding identification during early voting	The American Prospect		
Polling Place Harrassment	Yes	Yes								Arkansas	17-Nov-04	presidential	DNC Chair says black voters in Arkansas were harassed during early voting	Ethnic News Watch		
Polling Place Harrassment		Yes							Yes	California	14-Nov-01	mayoral	The ousted mayor's attorney, in a legal challenge to the election, said he intends to show that Perrodin's supporters pulled guns on voters at precincts	AP		
Police		Yes								California	28-Jan-03	treasurer and city council recall	The anti-recall camp accuses police officers of harassment and of "staring down" residents.	Los Angeles Times		
Pollworkers	Yes		Third-party							California	5-Nov-03	local	Latino community organizer tells city council panel that Latinos have experienced poll workers who intimidate Latinos by illegally asking them to show identification.	Union-Tribune		
Pollworkers/ID	Yes		Third-party						Yes	California	2-Feb-04	mayoral	A group called the People of Color Caucus alleged that some Latinas wearing Gonzalez buttons were told they were not allowed to vote	Los Angeles Times		
Challenges		Yes							Yes	Colorado	28-Oct-04	presidential	Democrats fear what they believe to be a plan by Republicans to challenge new voters, especially students at the University of Colorado at Boulder who may seek to use student IDs as proof of identification at the polls. State GOP brass said they have no such plan.	Denver Post		
Police										Connecticut	11-Nov-02	congressional	U.S. Representative tells Republican registrars to request police supervision at the polls if they are concerned about fraud or disturbance	The Day Online		
Pollworkers	Yes			Federal Observers					Yes	Florida	23-May-02	2001 special election	Federal observers found pollworkers downright "hostile" to Hispanics, even insisting that voters must speak English to vote	St. Petersburg Times		
Challenges		Yes								Florida	1-Nov-02		Citing fears of voter intimidation and a repeat by GOP operatives to "barrage polling places," local Democrats -- including former U.S. Attorney General Janet Reno and U.S. Rep. Carrie Meek -- are suing to block Miami-Dade County from allowing a Republican political action committee to put poll watchers inside the county's precincts Tuesday.	Miami Herald		

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Intimidation and Suppression

6/9/2007

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution:1
Purge	Yes	Yes								Florida	22-Jun-04	presidential	Harkening back to the 1960s, when Southern states used poll taxes and in-limidation to shut blacks out of elections, the Rev. Jesse Jackson on Monday ac-cused Florida Gov. Jeb Bush of engaging in "disenfranchisement schemes" by ask-ing counties to purge felons from voter rolls. "This is a typical South [tactic], denying the right to vote based on race and class," Jackson said. "You see classical voter disenfranchisement. These schemes to deny or suppress voters are not new schemes."	Miami Herald		
Police	Yes			Federal					Yes	Florida	19-Sep-04	presidential	The Justice Department is investigating accusations that Florida law enforcement officers intimidated elderly black voters during a probe of voting fraud in the Orlando mayoral election. Civil rights groups and Democrats contend that the agents presence and behavior, including allegedly displaying their guns, intimidated the minority voters they visited.	AP		
Pollworkers/ID			Third-party							Florida	1-Oct-04	presidential	Representatives from People for the American Way saw poll workers turn back registered voters who did not have ID, although that is not required. A spokeswoman from Election Protection says that several voters report being asked if they are citizens during early voting.	The Progressive		
Challenges		Yes								Florida	16-Oct-04	presidential	Democratic election lawyer says Republican plans to challenge voters at the polls may intimidate voters.	St. Petersburg Times		
Polling Place Harrassment										Florida	25-Oct-04	presidential	Two white men were filming voters as they entered the poll site in a presumed attempt at intimidation.	Financial Times		
Pollsite Intimidation (third-party)		Yes							Yes	Florida	26-Oct-04	presidential	The Republican Party distributed to the media affidavits from anonymous voters claiming to be harassed at polling sites in Miami, Pembroke Pines, Boca Raton, Plantation, St. Petersburg, Jacksonville Apopka and Tallahassee.	Miami Herald		
Multiple		Yes								Florida	27-Oct-04	presidential	Democratic National Committee (DNC) Chairman Terry McAuliffe has accused Republicans of engaging in "systematic efforts" to disenfranchise voters, imposing unlawful identification requirements on voters, throwing eligible voters off the rolls and depriving voters of their right to cast a provisional ballot.	Washington Times		
Challenges		Yes								Florida	29-Oct-04	presidential	Democrats have complained that GOP poll watchers will issue challenges in order to slow down the voting process and drive people away from the polls.	Palm Beach Post		

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Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigator?	Other Official involvement?	Charged (individuals)	Acquittal/Dismissal	Convicted / guilty pleas (individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of incident / allegation	Source of Resolution
Challenges	Yes	Yes								Florida	30-Oct-04	presidential	Democrats fear Republicans will systematically challenge black and Hispanic voters and create long lines at the polls. The suspicions were fed by reports that Republicans had a list of 1,866 voters they were planning to challenge in predominantly black areas of Jacksonville.	Orlando Sentinel	In the Jacksonville area, Republicans say they have a list of 2,663 newly registered voters from mostly Democratic black communities whose registration could be fraudulent. Republicans have said that poll watchers will enforce a portion of Florida law allowing poll watchers to challenge a voter at the polls. The St. Petersburg Times on Thursday quoted Gov. Jeb Bush as saying he would not have a problem with Republican poll watchers challenging the eligibility of voters	The Ledger, October 31, 2004
Challenges	Yes		Third-party						Yes	Florida	30-Oct-04	presidential	Based on a 1982 consent decree, The Advancement Project filed a lawsuit asking a federal district court in New Jersey to ban GOP poll watcher activities in heavily minority precincts in Florida. The suit contends that in New Jersey, Louisiana, and North Carolina, the RNC sent mass mailers to thousands of voters registered predominantly in black precincts. When thousands were returned because of incorrect addresses, those names went on lists for challenges. The GOP says it has just done a mass mailer to new voters.	Tampa Tribune		
Polling Place Harrassment		Yes								Florida	30-Oct-04	presidential	At one polling station, Republicans claimed that Democratic poll watchers were approaching Republican voters and shouting "There's a dirty Bush supporter!" as they waited on line.	Ottawa Citizen		
Polling Place Harrassment		Yes								Florida	30-Oct-04	presidential	Democratic poll workers say Republican poll workers are intimidating Kerry supporters, staring at them and refusing to move away if they decline to accept a Bush-Kerry sticker.	The Boston Globe		
Polling Place Harrassment		Yes								Florida	30-Oct-04	presidential	A Republican Party spokesman said elderly voters standing in line at early polling places who refuse to accept Kerry stickers have been harassed with shouts of "Hey, we've got a Bush voter here!" He says Republican poll watchers and volunteers have been "pretty much continually harassed and intimidated."	The Boston Globe		
Challenges	Yes	Yes								Florida	31-Oct-04	presidential	Democrats say Republicans are disproportionately putting poll watchers in predominantly minority precincts and said it could signal plans to intimidate or slow down voters. In Miami-Dade County, Democrats said 59% of predominantly black precincts have at least one Republican poll watcher, while 24 % of predominantly white precincts have them. In Leon County, 64% of black precincts have at least one Republican poll watcher compared with 24% of majority white precincts. In Alachua, 71% of black precincts have a Republican poll watcher assigned, while 24% of white precincts do.	St. Petersburg Times		

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Intimidation and Suppression

5/9/2007

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution
Polling Place Harassment	Yes		Third-party							Florida	1-Nov-04	presidential	Election Protection reports that Haitian Americans complained that "thugs" had walked along the waiting lines at an early polling site and demanded to see identification, while telling voters they could be deported.	Cox News Service		
Challenges					Police Action					Florida	3-Nov-04	presidential	Four GOP poll watchers were ejected from the polls by police and another was "threatened by poll workers for telling them to assign voters provisional ballots. These are people without IDs or even listed on the voter roll," according to a party statement.	Boston Globe		
Challenges										Florida	3-Nov-04	presidential	GOP challengers were monitoring the polls, armed with packets that included color mug shots of felons the party said were improperly included on the voting rolls. At the urging of the Bush campaign, some of the poll watchers were wearing buttons, hats or T-shirts that said "voting rights counselor."	Washington Post		
Police	Yes	Yes						Yes		Florida	3-Nov-04	presidential	At Midway Elementary School east of Sanford, a predominantly black voter pre-cinct, Democratic officials complained a large law-enforcement presence intimidated voters. A deputy sheriff assigned to the precinct moved his patrol car, with his police dog inside, after Democrats complained to the Seminole County Sheriff's Office about it being parked at the entrance to the parking lot, where they said there were as many as four deputies at a time.	Orlando Sentinel		
Polling Place Harassment					Elections officials					Florida	2-Mar-05	presidential	Shouting matches and rowdy behavior forced elections officials across the state to step in to keep the peace. Voters reported being harassed and intimidated at the polls.	Orlando Sentinel		
Pollworkers			Voters							Georgia	3-Nov-04	presidential	Many voters said they were denied provisional ballots or had to argue with poll workers to get them.	Atlanta Journal Constitution		

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Intimidation and Suppression

5/9/2007

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident / allegation	Source of Resolution
Challenges	Yes				Court				Yes	Georgia	28-Oct-04	presidential	<p>95 people who make up more than three-quarters of a rural Georgia county's registered Hispanic voters were summoned to a courthouse Thursday to defend their right to vote after a complaint alleged a county commissioner attempted to register non-U.S. citizens. The Atkinson County Board of Registrars, however, dismissed most of the complaint at the beginning of the hearing, saying the case could open the county to charges of violating the Voting Rights Act. Remaining complaints against two voters were dropped when the complainants declined to present any evidence against them. The three men who filed the complaint had said they have evidence a county commissioner attempted to help non-U.S. citizens register so they could vote for him in the July 20 Democratic primary. Lawyers from the ACLU and the Mexican American Legal Defense and Education Fund got involved because the men filed the challenges based on a list they had received from the Board of Registrars of all Hispanics registered in the south Georgia county.</p> <p>Linda Davis, chief registrar in Atkinson County, said she provided the men with a list of the 121 voters on the rolls who listed their race as Hispanic or Mexican. She said the men decided to challenge 95 of them.</p>			
State Suppression	Yes			Federal					Yes	Indiana	21-Apr-04	mayoral	<p>The Mexican American Legal Defense and Educational Fund filed a federal law-suit last October alleging that election officials conspired to persuade Hispanics to vote by absentee ballot and limit their access to the polls in the 2003 Democratic primary. The U.S. Attorney's Office is investigating similar allegations. The lawsuit seeks to overturn the election of Mayor Robert Pastrick, who defeated challenger George Pabey, who is of Puerto Rican descent.</p>	AP		

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Intimidation and Suppression

5/9/2007

Type:	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involved?	Charged (Individuals)	Acquittal/Dismissals	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution:
Suppression	Yes									Indiana	7-Oct-04	presidential	<p>Persistent warnings about terrorism also have drawn skepticism from some Democratic election officials and civil rights advocates who have accused the Republican White House of creating a climate of fear that, among other things, could suppress voter turnout. Heavy voter turnout historically has favored Democrats in U.S. elections.</p> <p>Some local officials in Indiana accused Secretary of State Todd Rokita, a Republican, of trying to intimidate voters after he asked election clerks to develop responses to "an immediate and present danger." Engy Abdelkader, civil rights director for the Council on American-Islamic Relations, says that Arab-Americans and other minorities could choose to stay away from the polls if they believe that federal agents will be questioning people there.</p>	USA Today		
Challenges					Police Action					Kentucky	29-May-02	county clerk primary	<p>A poll worker, Jeff Farmer, was stationed at Horse Creek Elementary School as a "challenger," someone who observes the process and can ask voters to prove identities or addresses. The sheriff said Farmer was warned after interfering with voters. "I told him to sit his ass down," Jordan said.</p> <p>When Farmer went outside about 10:30 a.m. and began "pulling voters out of line," according to Jordan, a sheriff's deputy told him to leave or face arrest. Farmer had a different version of events, saying he went out to smoke and wasn't allowed back in.</p>	Lexington Herald Leader		
Challenges	Yes		Third-party							Kentucky	31-Oct-03	gubernatorial	<p>A flyer written and distributed by the Republican in charge of recruiting poll workers asserts that in three previous races the NAACP and the Philip Randolph Institute have targeted "poor, black voters" and encouraged them to "commit voter fraud." Civil rights leaders say this shows that the Republican plan to put challengers in predominantly African American poll sites is racially based. The Republican County chair had announced that Republicans would place challengers at 59 precincts that were either chosen at random or because there were too few election workers.</p>	The Courier-Journal		

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Intimidation and Suppression

5/9/2007

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Challenges	Yes				Court				Yes	Kentucky	2-Nov-03	gubernatorial	Black voters in Louisville sued Friday over a Republican plan to put vote "challengers" in dozens of black precincts	AP	A judge turned down a request Monday to block Republican poll challengers from observing Tuesday's election in predominantly black neighborhoods of the city. Jefferson County Circuit Judge Thomas Wine denied a restraining order sought by the American Civil Liberties Union of Kentucky, which claimed the poll watch-ers could intimidate minority voters or slow voting. The ACLU also filed suit in federal court seeking to bar the poll challeng-ers, but there has been no hearing.	AP, November 4, 2003
Challenges	Yes		Third-party							Kentucky	4-Nov-03	gubernatorial	Republicans plan to deploy "a small army" of challengers in Jefferson County. Critics say the mobilization of mostly white challengers in poorer minority districts is intended to intimidate. Black leaders held a rally decriing the Republican initiative.	Christian Science Monitor	Precinct workers in western Louisville and Newburg reported no problems with Republican vote challengers and predicted a high voter turnout yesterday - in contrast to fears that the challengers would intimidate black voters and keep them from the polls. Even as the number of targeted precincts dropped to 18 because of staffing and training issues, the controversy drew national attention, with the Democratic National Committee and the National Association for the Advancement of Colored People sending personnel to help organize a get-out-the-vote effort. The NAACP also stationed volunteers outside polling places to ensure that voters were treated fairly.	The Courier Journal, November 5, 2003
Challenges	Yes									Kentucky	3-Aug-04	presidential	A group of Republicans called on the county party chair to resign because of plans to use voter challengers in the election. In 2003, the party used Republicans from across the county to watch voting in 18 predominantly Democratic districts - most of them with large numbers of black voters.	Courier Journal		
Police				Police						Louisiana	7-Oct-03	sheriff	Tangipahoa Parish Sheriff Ed Layrisson said Monday he has suspended two deputies while his office investigates allegations of public intimidation against them. The deputies were at a polling place Saturday and allegedly asked several people in a group how they planned to vote in the sheriff's race, authorities said. The deputies "have adamantly denied the allegation," Layrisson said. He said the deputies were not in uniform, but were carrying their badges and weapons.	The Advocate		
Pollworkers/ID			third-party							Louisiana	2-Nov-04	presidential	Louisiana Election Protection says it received many complaints of voters being denied the right to vote if they did not have a drivers license.	AP		

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5/9/2007

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Police		Yes								Maryland	5-Nov-02	gubernatorial	The Democratic National Committee filed a lawsuit seeking to prevent the Ehrlich campaign from using off-duty police officers as poll workers. The Democrats dropped the action when the campaign agreed the officers would not wear uniforms, badges or sidearms or identify themselves as police officers.	Washington Post		
State Suppression		Yes								Maryland	6-Nov-02	statewide	In Maryland, David Paulson, the director of communications for the state Democratic Party, charged that signs saying voters needed photo identification to vote had been "illegally" or "extralegally" placed by the Board of Elections in Prince George's County, just outside of Washington. Photo identification has never been required for voters there, he said.	UPI		
Polling Place Harassment	Yes				City					Massachusetts	12-Mar-05		In 2002, there were allegations that Russian and Chinese voters were being told how to vote by translators in a Brighton precinct that is home to the Jewish Community Housing for the Elderly complex on Wallingford Road. After those allegations, the city changed the rules at the polling place located there: Now, no resident of the building is allowed to work as an elections official there.	Boston Globe		
State Suppression/Pollworkers	Yes			Federal				Yes		Massachusetts	30-Jul-05		In a lawsuit filed yesterday, the Justice Department alleges that the city and its poll workers interfered with voters' rights by "improperly influencing, coercing, or ignoring the ballot choices of limited English proficient Hispanic and Asian-American voters" and of generally "abridging" their voting rights by treating Hispanic and Asian voters disrespectfully at the polls and by failing to provide adequate translation services for them.	Boston Globe		
Pollworkers	Yes			Third-party						Massachusetts	18-Aug-05	presidential	A survey by the Asian American Legal Defense and Education Fund found 10 voters who had been turned away because their names were not on the rolls and who were not offered provisional ballots as required by law.	Boston Globe		

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Intimidation and Suppression

5/9/2007

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Challenges	Yes		Precinct Chair		Police					Michigan	6-Nov-02		Trouble was reported at Bowen Recreation Center in Pontiac, where police were called after voters and election workers complained that a Republican Party volunteer was harassing people. Precinct chairwoman Linda Nichols said the woman, who identified herself as Teresa Sayer, came to the poll after leaving another location where voters had complained that she was questioning whether they were eligible to vote. "She would be behind the shoulder of the poll worker telling them what they could and could not do," Nichols said. "She even got behind the voter when they were going into the voting booth, asking them if they had identification." State election officials say challengers are not allowed to talk directly to voters but can question the veracity of a voter with poll chairpersons. State Republican officials denied that the woman was intimidating voters at the polling place. The precinct, on Bagley near Orchard Lake, is heavily Democratic and black.	Detroit News		
Other	Yes									Michigan	18-Sep-04	presidential	Democrats were outraged when Republican state representative John Pappageorge was quoted in July as warning that "if we do not suppress the Detroit vote, we're going to have a tough time in this election." Detroit is 83% black.	San Francisco Chronicle		
Challenges	Yes	Yes						Yes		Michigan	4-Nov-04	presidential	Reggie Turner, a Detroit lawyer with the Kerry campaign, complained of voter intimidation by GOP challengers at Detroit sites. "The documented incidents of intimidation and harassment that we have in our files are right out of the stories regarding harassment and intimidation in the South in the 1950s and 1960s," Turner said GOP challengers harassed people in line to vote, requesting identification when they had no right to, and had lists of voters "they intended to challenge without any legal basis for such challenges." The GOP's Paolino said the lists were of newly registered Detroit voters to whom the GOP had sent mailings that came back from the post office as address unknown	Detroit Free Press		

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Type:	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1
Challenges	Yes		Third-party		Federal Court					Michigan	8-Nov-05	mayoral	The NAACP has received more than 100 complaints including ones involving intimidation at the polls. There were many fights between challengers and poll workers.	Detroit Free Press	A US District judge ordered all political parties to refrain from talking to voters at the polls. The ruling came in response to a suit filed by the Detroit NAACP which said it had received complaints from 19 polling places that state and national GOP poll monitors were harassing voters. Republicans disputed the claim. The suit charged GOP workers were harassing voters in violation of a state law that prohibits challengers from talking to voters. The suit also said the watchers challenged the eligibility of Detroit voters to cast ballots, prompting some to leave without voting. The Detroit NAACP president said it was an attempt to reduce the black vote in next years state and congressional elections.	November 9, 2003 Detroit Free Press
Challenges	Yes		third-party					Yes		Minnesota	3-Nov-04	presidential	Republicans systematically challenged a group of voters brought in by a nonprofit group and a group from a shelter. At another site, a minority group advocate accused a Republican challenger of intimidating American Indian and black voters.	Duluth News-Tribune		
Pollsite Intimidation (third-party)					Court					Minnesota	3-Nov-04	presidential	Secretary of State Kiffmeyer said her office received about 140 complaints about MoveOn. Minnesota Republican Party leaders tried and failed to get a restraining order against the MoveOn organization, which they accused of stationing activists too close to polling places Tuesday. But the judge disagreed. "The evidence has consisted almost entirely of hearsay," said Hennepin County District Judge Francis Connelly after a two-hour hearing Tuesday afternoon.	St. Paul Pioneer Press		
Challenges	Yes		Local Officials					Yes		Minnesota	3-Nov-04	presidential	Officials in Beltrami County and throughout the Twin Cities reported seeing poll challengers increasingly focused on polling places with particularly heavy populations of specific groups. Examples of those specific groups were college students, Indians on reservations, minorities or the homeless. In one case, the chairman of a Minnesota Indian tribe accused Republican poll challengers of intimidating legitimate voters by aggressively challenging their residency.	Star Tribune		

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Challenges	Yes		third-party		Police Action					Minnesota	22-Mar-05	presidential	A get out the vote activist and an election judge say that a Republican operative improperly challenged so many Indian voters at the reservation on Election Day that the challenger eventually was removed by tribal police. Director of Minnesota Election Protection 2004 said that most of the 46 complaints that her group forwarded to the national database had to do with "overzealous partisan challengers." The challenges were often based "on the way a person looked" or the fact that the person was not speaking English.	Star Tribune		
Challenges	Yes		third-party							Missouri	28-Oct-04	presidential	Civil rights groups accuse the Republican Party of hiring hundreds of poll challengers as part of an effort to suppress the black vote in St. Louis. The Republican Party strongly denies this.	AP		
N/A									Yes	national	15-Oct-04	presidential	The Justice Department is ill prepared to handle a large influx of complaints about voting rights violations in the Nov. 2 presidential election, according to a report released yesterday by the Government Accountability Office. The Justice Department "lacks a clear plan" to reliably document and track allegations in a manner that could allow monitors to swiftly pick up patterns of abuse and take corrective steps, according to the GAO, Congress's nonpartisan investigative arm.	Washington Post		
Polling Place Harrassment (third-party)		Yes			Court				Yes	national	3-Nov-04	presidential	Republicans filed complaints with courts about poll monitors from the liberal group Moveon.org "intimidating" voters in New Hampshire, Iowa, Minnesota, Colorado and Michigan - all close states. Moveon.org's Eli Pariser said the GOP charges were intended to "create a false and distorted record to assist them in any legal challenges."	New York Daily News		

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Pollworkers/ID	Yes			third-party					Yes	national	4-Nov-04	presidential	Racial slurs from election workers, missing bilingual ballots and unwarranted demands to check voter identification turned away Asian American voters across the nation, according to reports by the Asian American Legal Defense and Education Fund. "There were racist remarks in New York City -- poll workers were blaming them for holding up the lines. One of them said, "You Oriental guys are taking too long to vote," she said. Although the legal fund continues to tally its exiting poll surveys and has no firm estimate for the number of incidents, Fung said repeated requests from poll workers to check identification hindered the high turnout of Asian American voters. With their patience worn thin by the inadequacy of their voting site, many simply left without voting. In polling sites across Detroit, University of Michigan student volunteers monitoring the polling sites said they not only encountered deficient polling sites, but also challengers from the Republican Party deliberately aiming to drive voters away through tactics of intimidation.	University Wire		
N/A	Yes	Yes								national	18-Jan-05	presidential	In his first high-profile address since conceding the presidential election, Senator John F. Kerry decried what he called the suppression of thousands of would-be voters last November. "Thousands of people were suppressed in their efforts to vote. Voting machines were distributed in uneven ways," he told an enthusiastic audience of 1,200. "In Democratic districts, it took people four, five, 11 hours to vote, while Republicans [went] through in 10 minutes. Same voting machines, same process, our America," Kerry said. Critics of the election process in Ohio say there were not enough voting machines in urban, Democrat-leaning precincts, leading to long lines that dissuaded many voters from casting ballots. In some cases, polls were held open after the announced closing time to allow everyone in line to vote, but some left without voting after standing in line for hours. Some blacks in particular have also charged that there were organized efforts to send voters to the wrong voting places, and troubling disparities in the way voting machines counted Democratic votes.	Boston Globe		
Challenges			third-party	DA					Yes	Nevada	23-Oct-02	local	A group called "Concerned Citizens for Fair Elections" filed 1,200 voter challenges, nearly 200 of which were duplicates or triplicates of the same challenge; 220 were improper; several of those who signed the challenges under penalty of perjury said they never inspected the residence they claimed was abandoned or not occupied by a registered voter. District Attorney investigates whether there was perjury	Pahrump Valley Times		

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Challenges			BOE							Nevada	1-Oct-04	presidential	The registrar says an official of the Republican Party came to his office with a small group asking how to launch a "full scale program for challenging voters."	The Progressive		
Challenges		Yes			BOE					Nevada	29-Oct-04	presidential	An effort by a former Nevada GOP operative to question 17,000 Democratic voters in Las Vegas was rejected earlier this month by election officials there	Washington Post		
Pollworkers/Intimidation					Court					New Jersey	26-Jun-01	municipal	A court appointed election monitor found that in the May 8 election violations included refusing to provide provisional ballots and intimidation of voters by candidates' representatives	New York Times		
Suppression	Yes									New Jersey	6-Nov-01	US Senate	Hispanic and black residents in the city of Passaic receive postcards in the mail warning of "armed law enforcement officers" at the polls and fines or prisons for anyone violating voting laws	The Record		
Suppression	Yes				Federal Monitor					New Jersey	4-Dec-01	sheriff	The federal monitor found that the weekend before Election Day, Passaic city voters received a mass mailed post card reminding them that "armed law enforcement officers" would be policing the polls. The cards inferred they were official and cited the name of the monitor. He said they seemd aimed at minority voters	The Record		
Challenges					BOE					New Jersey	27-Oct-04	presidential	A resident files challenges of 55 county residents whose voter confirmation cards sent from the Board of Elections were returned undeliverable. He withdrew 47 of his challenges and the board denied the other eight. The county Republican chair said that the state Republican Party directed counties to challenge suspect voters such as those who have an address where voter confirmation cards could not be delivered.	Newark Advocate		
Challenges		Yes			Court					New Jersey	9-Nov-05	statewide	The state Democratic Party won an injunction in the Superior Court in Passaic County, with the judge issuing a statewide order barring any challenger from disputing any voter's ability to vote based on the voter's signature. The Democrats said they heard numerous complaints about GOP challengers interfering in the signature comparison process.	Star Ledger		
State Suppression		Yes								New Mexico	20-Oct-04	presidential	At a special meeting Tuesday, Sandoval County commissioners voted 3-1 against opening an additional early voting site in Rio Rancho. Commissioners cited a short time line and legal questions in voting against the poll. The commission called the meeting after Republican legislative candidates and the mayor of Rio Rancho complained that the lack of an early voting site in the city disenfranchised voters. "The combination of an incompetent county clerk and highly partisan Democrat commission has allowed disenfranchisement of the fourth largest city in New Mex-ico," said Whitney Cheshire, a spokeswoman for New Mexico Victory.	Albuquerque Journal		

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Suppression	Yes	Yes								New Mexico	25-Oct-04	presidential	In a mass mailing, the Republican National Committee is citing Hispanic voter registration campaigns as proof that "Democrats... will cheat in order to win." Hispanic advocates say this is designed to suppress Hispanic voting.	Washington Post		
Polling Place Harassment				Federal					Yes	New Mexico	3-Nov-04	presidential	In New Mexico, a Republican poll watcher videotaped a man as he left a polling station after casting a provisional ballot on Saturday, said Secretary of State Rebecca Vigil-Giron, a Democrat. Vigil-Giron said Republicans argued they wanted to record the voter's face for a possible legal challenge. Federal officials were investigating, she said.	Chicago Tribune		
Suppression		Yes								New York	31-Oct-05	mayoral	Democratic candidate sends a letter to the Department of Justice complaining of Republican election day plans to man some polls with off-duty corrections officers, calling it a bid to intimidate voters.	New York Daily News		
Intimidation	Yes		third-party						Yes	North Carolina	27-Oct-04	presidential	The head of the Mexican-American Legal Defense Fund says the sheriff gave a list of registered Hispanic voters to immigration authorities to check their status. The sheriff "also threatened to go door-to-door personally with his department to ensure that immigration status was checked and make sure there was no perception of fraud by Latinos"	Agence France Presse		
Pollworkers/ID					BOE					North Carolina	29-Oct-04	presidential	In southeast Charlotte, Elections Director Michael Dickerson told poll workers at the Morrison Regional Library to stop asking people waiting to cast early votes to get identification cards ready. Richard Friedman, an unaffiliated voter who is volunteering with the Kerry campaign, complained after elections staff told people standing in line to get their driver's license or voter registration card ready. Most N.C. voters are not required to show ID when they vote, and no one asked for it when voters got in to cast ballots, Friedman said.	Charlotte Observer		
Police			Elections Officials							Ohio	6-Sep-04	presidential	Ohio polling sites plan to add security, which some election officials believe will intimidate voters and poll workers	Columbus Dispatch		
State Suppression		Yes								Ohio	20-Oct-04	presidential	Democrats believe the Secretary of State's order that people who appear to vote in the wrong precinct should not be allowed a provisional ballot and the unnecessary purging of voter rolls, and the Republicans' checking of new registrants are designed to intimidate voters into staying home.	Columbus Dispatch		
Challenges	Yes									Ohio	23-Oct-04	presidential	Republicans filed a challenger list in 191 precincts - many of them in largely black neighborhoods around Dayton. Republicans say it is to prevent vote fraud	Cleveland Plain Dealer		

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Challenges					Court					Ohio	23-Oct-04	presidential	Republicans formally challenged the validity of 35,000 voter registrations across the state	Cleveland Plain Dealer	After a court fight, scheduled hearings on the challenges were canceled, but voters still received mail notifying them they were being challenged.	January 7, 2005, Columbus Dispatch
Challenges					BOE					Ohio	24-Oct-04	presidential	Dozens of Republican challenges to newly registered voters in Franklin County will be tossed out because they were not properly filed, a local elections official said yesterday. An initial review of 50 challenge forms filed by GOP activists shows 40 with an incorrect ward or precinct listed for the voter, said Michael Hackett, deputy director of the Franklin County Board of Elections. He said such mistakes will nullify requests to have people removed from the list of eligible voters. Voters whose eligibility is challenged need to prove Thursday that they're registered at their correct address. If they don't show up, elections board members can decide whether to keep them on the rolls. Franklin County Republican Chairman Doug Preisse said his party's challenges of voters' eligibility is not an attempt to deny legitimately registered people the right to cast a ballot. In Franklin County, beyond the challenges with incorrect information, it appears Republicans included some legitimately registered voters, including members of the military.	Columbus Dispatch		
Challenges	Yes	Yes							Yes	Ohio	29-Oct-04	presidential	In a lawsuit, a voter and Democrats contend Republican challenges to voters around Cleveland and Columbus are designed to keep poor and minority voters from voting.	AP		
Challenges	Yes		third-party							Ohio	30-Oct-04	presidential	Jeff Ganso of the ACLU said in Hamilton County, 250 of 251 precincts targeted by Republicans with challengers are majority African-American precincts.	Toledo Blade		
Challenges		Yes								Ohio	31-Oct-04	presidential	Democrats accuse Republicans of using challengers to suppress voter turnout. Republicans will not allow the press to attend training sessions.	Cleveland Plain Dealer		
Challenges	Yes				Court					Ohio	1-Nov-04	presidential	In a lawsuit in Hamilton County, civil rights activists say GOP challenges are discriminatory because they were filed disproportionately in precincts with a majority of black voters. A civil rights group seeks to block challengers in Ohio by arguing they violate a 1981 national order prohibiting the Republican National Committee from trying to intimidate black voters	Columbus Dispatch	District court judges blocked the challenges because they could cause delays, confusion and intimidation. 6th Circuit overturns the lower court rulings.	Columbus Dispatch, November 2, 2004
Polling Place Harrassment		Yes							Yes	Ohio	3-Nov-04	presidential	In Lucas County, Ohio, Republicans asked a judge to bar poll monitors from wearing "Voter Protection Staff" and "Voting Rights Staff" armbands from polling spots.	New York Daily News		

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Challenges				Federal	BOE				Yes	Ohio	5-Nov-04	presidential	The Board of Elections threw out 976 of the challenges filed by the Republican Party without prejudice after a volunteer who brought the challenges revealed she did not have any personal information about the eligibility of the challenged voters. A member of the Board told the volunteer she could be indicted for signing a sworn challenge without personal knowledge of eligibility. The Board has indicated they plan to call the Department of Justice to conduct a criminal investigation of the challenges.	Philadelphia Tribune		
State Suppression	Yes									Ohio	11-Dec-04	presidential	Because blue-collar and lower-income workers tend to vote Democratic, the long lines in Akron and other urban areas fueled suspicion of a deliberate tactic to hold down the turnout -- especially in largely African-American precincts for presidential challenger John Kerry.	Akron Beacon Journal		
Multiple	Yes									Ohio	23-Jun-05	presidential	Blacks and young voters in Ohio faced widespread voter suppression - mostly because of long lines and improper identification checks - during last year's presidential election, according to a new Democratic Party report. DNC Chairman Howard Dean said that while it's unclear whether the suppression was intentional or whether it influenced the election results, the party's five-month, \$250,000 investigation showed that 28 per-cent of Ohio voters - and twice as many black voters - reported facing challenges on Election Day. "You have a particular ethnic group that has to wait three times as long as other voters, then clearly there is something going on that is aimed at particular precincts," Dean said blacks waited an average of 52 minutes to vote while white voters waited about 18 minutes. It also found that 37 percent of Ohio voters reported being asked for identification. Ohio law requires only new voters to produce identification, and new registrants accounted for 7 percent of all voters. Blacks and voters under 30 were asked for ID's at higher rates than other voters.	The Cincinnati Enquirer		
State Suppression	Yes	Yes								Ohio	23-Jun-05	presidential	Long lines were caused by the scarcity of voting machines in a number of precincts, particularly in minority areas, a report by the DNC on the election in Ohio says.	Washington Post		
Intimidation			Election Officials							Oregon	21-Oct-04	presidential	Officials are concerned about voter intimidation at ballot drop-off sites the evening of the Nov. 2 deadline. A Republican manual instructs GOP volunteers to take video cameras. Party officials say this is to make sure no ballots are collected after the 8 pm cutoff, but Democrats worry that it could frighten away some voters.	Christian Science Monitor		

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Challenges		Yes								Pennsylvania	6-Nov-02	statewide	Democrats in the state are concerned about Operation Swarm and Storm -- the name they say was given to an effort by the George Gekas campaign to challenge voters based on old information. A pamphlet was allegedly prepared by the campaign, which instructed Republican poll workers to challenge voters who had recently moved to new districts. The laws had been changed, however, and such challenges could have been wrongly made. Voters in some districts were also challenged to produce identification, charged state Democratic Party spokeswoman Mia DeVane. Voters she said need only provide a matching signature to vote in the state.	UPI		
Polling Place Harassment/Pollworkers				Police/local	Court					Pennsylvania	5-Nov-03	mayoral	Complaints filed with the police, the district attorney's office, and the Committee of Seventy alleging physical violence, harassment and intimidation were the highest in modern history. The DA's office reported it had received at least 171 complaints, nearly quadruple the 41 complaints of four years ago. Most charged that voters and poll workers had been intimidated or interfered with. Inspector William Colarulo said the Police Department had received at least 110 complaints, most dealing with simple assaults, vandalism and disturbances. In the course of the day, Common Pleas Judge Benjamin Lerner signed two orders directing Republican workers at polling places in Germantown and North Philadelphia to stop demanding identification from people showing up to vote.	Philadelphia Daily News		
Challenges										Pennsylvania	26-Oct-04	presidential	Republican Representative John Perzel, speaker of the state house, told US News and World Report that "The Kerry campaign needs to come out with humongous numbers here in Philadelphia. Its important for me to keep that number down." At the same time, he said campaign workers are examining voting records for evidence of Democrats registering more than once or otherwise violating election rules. An aide to Perzel said challengers will have lists of questionable registrations at the polls.	AP		
Pollsite Location	Yes	Yes								Pennsylvania	31-Oct-04	presidential	In Philadelphia, Republicans unsuccessfully sought last week to change locations of 63 polling places, contending that their placement in closed bars or in homes would intimidate voters. Democrats pointed out that most of those locations were in minority neighborhoods and branded the move an effort to suppress black votes.	Philadelphia Inquirer		

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Challenges			BOE							Pennsylvania	2-Nov-04	presidential	Philadelphia's voter-registration administrator cried foul last night over a letter sent from the state GOP to judges of elections, the men and women who run the city's 1,681 polling places. He said the letter had wrongly instructed those poll workers to check and compare voters' various signatures "at will." He pointed to state law, which limits such checks to prevent long voting delays. State Republicans released additional details yesterday from their list of 10,000 letters to Philadelphia voters that they said were returned as undeliverable. They said they would use this list to challenge voters at the polls today Counsel to the state Republican Party said there were multiple reports yesterday that elderly voters in Lancaster and York Counties in Central Pennsylvania - an area the Bush campaign has been heavily courting - got phone calls telling them they would not be allowed to vote and urging them not to show up at the polls.	Philadelphia Inquirer		
Pollworkers					Court					Pennsylvania	3-Nov-04	presidential	While overwhelmed poll workers pushed provisional ballots on some voters who should not have been using them, other voters who could have used provisional ballots were being turned away. In Allentown, about 10 lawyers and community activists rushed to the Salvation Army building on North Eighth Street to challenge poll workers who were stopping about eight people whose names were not in the registration list.	Morning Call		
State Suppression										Pennsylvania	4-Nov-04	presidential	There were long lines throughout the state, leading voters to wait for several hours in order to vote. Some voters waited into the night in order to vote. Some reportedly left without voting.	Philadelphia Inquirer		
Police										Pennsylvania	8-Dec-04	presidential	In Philadelphia, some voters were sent to police stations to cast provisional ballots, House Minority Whip Steny H. Hoyer (D-Md.) told a voting rights forum. "Clearly an intimidation," he said.	Los Angeles Times		
Pollworkers			Voters		BOE					Pennsylvania	24-Apr-05	presidential	The Board of Elections fired three elections officials because of charges they intimidated Democratic voters. One voter said a poll worker was aggressive in challenging his eligibility. Another said a worker yelled at her and then grabbed her arm and forced her out of the polling place because she was wearing a Kerry button.	Lancaster Sunday News		

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Challenges	Yes				Court				Yes	South Carolina	5-Nov-02		Voters in Beaufort County who only have rural route addresses or post office box numbers on their voter registration cards might face problems at the polls today, a federal lawsuit filed in Charleston late Monday alleges. The lawsuit said that poll workers could challenge these voters' ballots, and that if this happens, black voters would be disproportionately affected. The chair of the election commission said poll workers will ask these voters to identify exactly where they live, possibly by having them point out their homes on a map. He said the purpose of doing this is not to discourage or embarrass the voter, it's to ensure they get the correct ballot. He said if there is any confusion, voters will be given failsafe ballots that exclude district races but still allow voters to cast ballots in federal, state and countywide races.	The Post and Courier		
Police	Yes	Yes								South Carolina	12-Aug-04	county council	Candidate says he plans to have observers at the polls and may call for sheriff's deputies to enforce voting laws when voters try for a third time to nominate a Republican County Council candidate. His opponent alleges he is trying to intimidate black voters from voting.	Greenville News		
Challenges										South Carolina	2-Nov-04	presidential	Dozens of voters, many students, were turned away from a precinct at Benedict College after Republican poll watchers contested the legality of their vote. Challenges slowed voting at the precinct causing waits as long as four hours. The Republican Party executive director said poll watchers were challenging people who did not have proper state identification, such as a drivers license. Alternate forms of identification permit student to vote provisional ballots.	AP		
Suppression	Yes	Yes								South Dakota	31-Oct-02	US Senate	Senator Daschle says Republicans have targeted Native American communities in making allegations of vote fraud and launching initiatives in order to suppress the Native American vote	Washington Times		

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Other	Yes			State						South Dakota	1-Jan-03	senate	Republican attorneys fanned out across the state on Election Day to gather affidavits to show vote buying. The State Attorney General (a Republican) says that of the 50 affidavits only three alleged criminal activity, and two of those proved to be false. One person is being investigated. Two of the affidavits were found to have been forged or perjurious. Each affidavit states that the person allegedly signing it claimed to have been picked up by a van driver, offered 10 to vote, taken to the polling place and home again and again offered the 10. Most of the allegations focused on the Rosebud Reservation	Indian Country Today (Lakota Times)		
Pollworkers/ID	Yes									South Dakota	30-Jun-04	special election	During the June 1 special election, several Native American voters were told they could not vote if they did not have ID and were not told about the affidavit option. Most of the complaints came from across the state, many from reservations and some from Rapid City, where there is a large American Indian population. A Republican poll watcher denied this was the case. He said Indian voting rights workers were intimidating poll workers.	Indian Country Today (Lakota Times)		
Pollworkers/ID	Yes									South Dakota	26-Aug-04	presidential	Some American Indians were not allowed to vote in the primary because they did not have photo ID and some said they were not told they could instead sign an affidavit.	Newsday		
Polling Place Harassment	Yes				Court					South Dakota	2-Nov-04	senatorial	On Election Day, a district court judge ruled Republican poll watchers in Charles Mix County had to stop following American Indian voters after they cast ballots. The GOP workers were also ordered to stop writing down those people's license plate numbers.	AP		
Challenges					State Election Director					Tennessee	5-Nov-02		A GOP memo to its poll watchers said, "There are problems" with the instructions [state election director]Thompson's office provided to local officials, and focuses on whether the would-be voters are legitimately qualified. "If the officers at the precinct are not screening voters for their qualifications to vote, including their citizenship, they should be challenged so that the election officials will carry out the law and make sure they are qualified to vote if they are first-time voters," the memo says Thompson said the U.S. Department of Justice, part of President Bush's administration, notified him of the GOP memo last week and expressed concerns about it. After conferring with the Justice Department and state Attorney General's office, Thompson sent a four-page memo to local election officials Friday that makes it clear that poll watchers are forbidden by law to question or challenge voters directly and that election officials are not to require would-be voters to provide proof of eligibility, as the GOP memo seeks.	Commercial Appeal		

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													The state Democratic Chair said the challenges targeted African American voters.			

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State Suppression	Yes								Yes	Texas	6-Oct-04		Students at historically black college Prairie View A & M filed several lawsuits against a Texas district attorney for making comments that he would prosecute students that falsely declared the school as their place of residency. In 1979, the US Supreme Court ruled in favor of Prairie View A & M, upholding a student's right to vote.	Los Angeles Sentinel		
Challenges	Yes									Utah	18-Jun-04	congressional primary	An immigration-issues group is mounting a last-minute bid to challenge hundreds of foreign-born voters in Utah's Republican primary Tuesday. The effort is the work of ProjectUSA, based in Washington, D.C. The Utah voter challenge would require those singled out in the state's 3rd Congressional District by ProjectUSA to confirm at the polls that they are U.S. citizens and registered voters. State elections director Amy Naccarato is concerned ProjectUSA might scare off some legitimate voters.	Deseret Morning News	The Washington-based immigration issues group ProjectUSA has backed down on its plan to challenge blocs of Utah voters in areas with high immigrant populations. Craig Nelsen, president of ProjectUSA, had said he intended to challenge the voters in Utah's 3rd Congressional District based on concerns that illegal immigrants would vote for Congressman Chris Cannon in Tuesday's primary. Nelsen said Friday that after analyzing voter registration rolls and U.S. Census Bureau data for Utah's 3rd Congressional District, his group "didn't find any (patterns) that would warrant a challenge." Election officials in Salt Lake and Utah counties echoed Naccarato's relief Friday afternoon that no challenge had been filed. Attorneys in both counties had been scrambling to review the legality of any such challenges. "Our biggest concern was the message it was sending to voters," said Utah County Clerk Jim Jackson. "It almost smacked of discrimination against a group. That's just not right."	Deseret Morning News, June 19, 2004
Challenges					County Clerk					Utah	6-Nov-04	congressional	The Republican candidate challenged the legal registration of 1,495 residents of the Holladay-area neighborhoods in the days before the election. 1,494 were Democrats, and one was from the American Party. The County Clerk determined the claims were groundless and said he could be subject to a charge of voter intimidation.	Salt Lake Tribune		

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigator?	Other Official involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted/guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution
State Suppression		Yes			Court					Washington	20-Dec-04	gubernatorial	Procedures for validating ballot signatures vary widely from county to county in Washington state, a fact that has become significant given the razor-thin margin of the governor's race. A survey by The Seattle Times showed that counties use different procedures for evaluating signatures, the newspaper reported Sunday. More than 3,400 absentee and provisional ballots in Washington were rejected in the November election because the signatures didn't match those on file with elections officials. The state Supreme Court last week rejected an argument by the Democratic Party that counties have disenfranchised voters by handling mismatched signatures so differently.	AP		
State Suppression										Washington	20-Dec-04	gubernatorial	King County election workers were told as early as May that if an absentee ballot came in without a matching signature on file they were required to make a concerted effort to verify that the vote was valid. Before a special election in May, King County election workers routinely violated state law by counting such ballots without making any attempt to verify the signatures. In this November's general election, the county's absentee-ballot staff still didn't make the effort to find matching signatures. But instead of counting the ballots automatically, they rejected them.	Seattle Times		
Challenges	Yes			Press						Washington	31-Mar-05		A Soap Lake man is challenging the voting credentials of hundreds of Washington voters, saying he thinks they're illegal immigrants who registered and cast ballots illegally. But Martin Ringhofer may have a hard time proving the challenges he has filed in Spokane and 10 other Washington counties. For one thing, there's the methodology of his research. Ringhofer said he obtained a list of people who registered to vote when they obtained or renewed a driver's license, then culled the list for names "that appear to be from outside the United States," particularly those that appeared to be Hispanic or Asian. For another, there's the fact that many of the people on his list are citizens. In fact, The Spokesman-Review contacted a dozen of the 161 people on Ringhofer's Spokane County list, and all of them are citizens.	Spokesman Review		

015638

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Challenges			Voters		BOE				Yes	Washin gton	5-Nov-05	county	Elections officials said hundreds of angry voters called to complain about a Republican backed effort challenging their right to vote. Several voters said the GOP County Vice-Chair was wrong that their registrations did not have their legitimate address. Those voters challenged will have to either re-submit registration forms or when challenged, vote by provisional ballot. Democrats called it a voter intimidation and suppression effort.	Seattle Post-Intelligencer	The GOP withdrew 140 of 1500 claims, admitting they were faulty. Democrats charged that Republicans' real aim was to discourage voters from voting. Voters whose registrations were challenged will have to vote by paper and the Canvassing Board will conduct hearings on whether the votes should count. Challenged voters may make their case at the hearings, at which the burden of proof is on the Republican challengers.	Seattle Post-Intelligencer, November 8, 2005
Challenges		Yes		County					Yes	Washin gton	10-Nov-05	presiden tial	A county councilman asks the county prosecutor to investigate whether a Republican challenger committed perjury in filing some of the challenges without justification. The challenger was the head of the county GOP's Voter Registration Integrity Project" which challenged the registrations of 1,944 voters saying they were registered at private mailbox businesses and storage complexes. Many of the challenges turned out to be baseless. Others did not know it was illegal. Those voters had to file a challenge ballot. The validity of those ballots will be determined at a canvassing board hearing. County Democrats claim the challenges were an attempt to intimidate and disenfranchise voters.	Seattle Times		
Federal Agents			Defendants in case							West Virginia	31-May-05	primary	Defendants in a vote buying case allege that federal agents intimidated voters by videotaping and photographing voters as they visited the polls	AP		
State Suppression		Yes								Wisconsin	13-Oct-04	presiden tial	Milwaukee County Executive Scott Walker, citing vote-fraud concerns, is publicly balking at a City of Milwaukee request for almost 260,000 additional ballots in anticipation of high turnout for the Nov. 2 presidential election. Mayor Tom Barrett blasted Walker's stance, and Common Council President Willie Hines Jr. immediately joined in, saying it was an attempt to suppress the central-city vote.	Milwaukee Journal Sentinel		
Third Party Suppression	Yes			State						Wisconsin	27-Oct-04	presiden tial	Federation for American Immigration Reform sent Michigan residents to Wisconsin voter registration stations set up by an immigrant rights groups to see whether an illegal immigrant was registering illegal voters. The group said it refused to register the Michigan voters and if they insisted they discarded their forms. Prosecutors will check to ensure the registrations were not mailed in.	AP		

015639

Intimidation and Suppression

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Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted/guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1
Challenges										Wisconsin	29-Oct-04	presidential	<p>Although the Board of Elections refused a request by the state Republican Party to have 5,619 names and addresses removed from Milwaukee voting lists, the party plans to challenge anyone who tries to vote from those addresses at the polls. A Journal Sentinel review shows many of the names and addresses confirmed some of the problems cited by the GOP, as well as uncovered additional missing addresses. Some cited by the GOP may be explained by clerical errors, however.</p>	Milwaukee Journal Sentinel	<p>Amid a renewed push Friday by Republicans to get some 5,600 names removed from Milwaukee voting lists, prosecutors began examining 500 new registrants that a city review indicated are from non-existent addresses. The same review by the city attorney's office, however, raised doubts about the quality of the GOP's original list, finding that hundreds of the addresses that the Republicans claim are invalid and want removed do, in fact, exist. Some others, according to City Attorney Grant Langley, can be explained by data entry errors, not attempted fraud. Late Friday, Langley outlined the review situation in a letter to Lisa Artson, head of the city Election Commission.</p> <p>The letter said the review by his staff and the district attorney's office found cases where the database used by the GOP was corrupted, dropping digits on some homes so otherwise valid addresses showed up as non-existent. In other cases, a check of the original handwritten registration cards showed digits had been transposed by clerks, something that can be corrected at the polls.</p> <p>Langley's letter says the review casts "doubt on the overall accuracy" of the GOP list and the way it was compiled. At least some of the addresses will be investigated for possible fraud, however.</p> <p>Republican and City of Milwaukee leaders reached an agreement Sunday ending a faceoff over thousands of registered voters with questionable addresses.</p> <p>2) Under an agreement reached, a list of 5,512 prospective city voters whose addresses are questionable will be distributed to polling places. Those on the list who show up to vote will be asked to fill out a change of address card or registration form, and to show proof of residency -- a driver's license, utility bill or some other document showing an address -- before casting their ballot. Anyone without proof of residency at an address on the list will have to take an oath, and that person's ballot will be marked as being challenged by the poll worker.</p>	Milwaukee Journal Sentinel, October 30, 2004

015640

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation?	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution
Challenges		Yes								Wisconsin	31-Oct-04	presidential	Citing a new list of more than 37,000 questionable addresses, the state Republican Party demanded that city officials require identification from all of those voters. If the city doesn't, the party says it is prepared to have volunteers challenge each individual – including thousands who might be missing an apartment number on their registration – at the polls. Democrats say this is a last minute effort to suppress turnout by creating long delays at the polls. This is in addition to the 5,619 bad addresses the party claimed. The state GOP chair said they had just focussed on Milwaukee because its voter list is a mess and cause for great alarm.	Milwaukee Journal Sentinel		
Suppression									Yes	Wisconsin	2-Nov-04	presidential	The tires of 30 vans Republicans had rented to help get out the vote were slashed.	AP		

015641

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (individuals)	Acquittal/Dismissal	Convicted/guilty pleas (individuals)	Follow-up recommended	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident / allegation	Source of Resolution
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015642

Intimidation and Suppression

5/9/2007

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution

015643

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissals	Convicted/guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution

Intimidation and Suppression

5/9/2007

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty plea (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution

015645

Intimidation and Suppression

5/9/2007

Type:	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted/guilty please (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution

015646

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution
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015647

Type:	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involved?	Charged (individuals)	Acquittal/Dismissal	Convicted / guilty pleas (individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution:
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015648

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution

015649

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted/guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution
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Type:	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissals	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1

Type:	Racial/Ethnic Allegation:	Partisan Allegation:	Other Source for Allegation:	Investigation?	Other Official Involvement?	Charged (Individuals):	Acquittal/Dismissal:	Convicted / guilty pleas (Individuals):	Follow-up recommended:	State:	Date:	Type of Election:	Alleged Instance of fraud:	Original Source:	Resolution of Incident / allegation:	Source of Resolution:

Intimidation and Suppression

5/9/2007

Type:	Racial/Ethnic Allegation	Partisan Allegation	Other: Source for Allegation?	Investigation?	Other Official Involvement?	Charged (Individual)	Acquittal/Dismissal	Convicted/guilty plea (Individual)	Follow-up recommended?	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution

015655

Intimidation and Suppression

5/9/2007

Type:	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation?	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution

015656

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigator?	Other Official involvement?	Charged (individuals)	Acquittal/Dismissal	Convicted/guilty pleas (individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution
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015657

Type:	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (Individuals)	Follow-up recommended?	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution:

Type:	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted / guilty pleas (individuals)	Follow-up recommended	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident / allegation	Source of Resolution?
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015659

Type:	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissal	Convicted/guilty pleas (Individuals)	Follow-up recommended?	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of incident / allegation	Source of Resolution:

Type:	Racial/Ethnic Allegation	Partisan Allegation	Other: Source for Allegation	Investigator?	Other Official involvement?	Charged (Individual)	Acquittal/Dismissal	Convicted / guilty plea (Individual)	Follow-up recommended	State	Date	Type of Election	Alleged instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution
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015661

Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquitted/Dismissal	Convicted/guilty plea (Individual)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of incident / allegation	Source of Resolution
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Type:	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individuals)	Acquittal/Dismissals	Convicted/guilty pleas (Individuals)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution
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015663

Intimidation and Suppression

5/9/2007

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Type	Racial/Ethnic Allegation	Partisan Allegation	Other Source for Allegation	Investigation?	Other Official Involvement?	Charged (Individual)	Acquittal/Dismissal	Convicted/guilty pleas (Individual)	Follow-up recommended	State	Date	Type of Election	Alleged Instance of fraud	Original Source	Resolution of Incident / allegation	Source of Resolution 1)

Source of Resolution 2

Source of Resolution 2:

015667

Source of Resolution 2

Source of Resolution 2

015669

Source of Resolution 2

015670

Source of Resolution 2

015671

Source of Information
Resolution 2

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Source of Resolution 2:

015673

Source of Resolution: 2

Source of Resolution 2

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Source of Resolution 2

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Source of Resolution 2

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Source of Resolution 2

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Source of Resolution 2

Source of Resolution 2

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Source of Resolution 2

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Source of
Resolution 2

Milwaukee
Journal
Sentinel,
November 1,
2004

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Source of Resolution 2:

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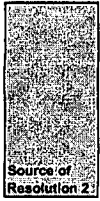
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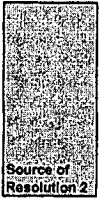
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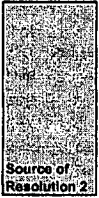
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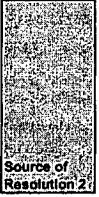
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